

**HEALTH COMMITTEE  
of the  
Suffolk County Legislature**

**Special Meeting - Minutes**

A special meeting of the Health Committee was held at the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, in the Rose Y. Caracappa Auditorium on Tuesday, **May 16, 2001** at 10:00 a.m.

**MEMBERS PRESENT:**

Legislator Ginny Fields, Chairperson  
Legislator Brian Foley  
Legislator Maxine Postal

**ALSO IN ATTENDANCE:**

Legislator Cameron Alden, Legislative District No. 10  
Paul Sabatino, II, Counsel to the Legislature  
Mary Skiber, Legislative Aide to Legislator Fields  
Chris Reimann, Legislative Aide to Presiding Officer Tonna  
Fred Pollert, Director, Budget Review Office  
Mary Howe, Budget Review Office  
Kim Brandeau, Budget Review Office  
Bob Garfinkle, County Attorney's Office  
Michael Monaghan, Suffolk County Department of Public Works  
Thomas LaGuardia, Suffolk County Department of Public Works  
Kenneth Hill, Suffolk County Department of Public Works  
Dr. Clare Bradley, Commissioner, Suffolk County Department of Health  
Bob Maimoni, Suffolk County Department of Health  
Anne Marie Carbonetto, Suffolk County Department of Health  
Gene Durnes, Suffolk County Department of Health  
Jay Zuckerman, Southside Hospital  
Scott Williams, Southside Hospital  
Sanu Aggarwal, Southside Hospital  
Paul Greenberg, Civil Service/Employee Services  
Akiva Kobre, Touro College  
James F. Meade, Touro College  
Bonnie Godsmen, IR/County Executive's Office  
Lenny Grecco, Suffolk Life  
Warren Horst, Suffolk County Fire Marshal's Office  
Edward K. Springer, Suffolk County Fire Marshal's Office  
Mary Ann De Costanzo, AME – Secretary  
Madelaine Feindt, AME  
James Alipo, Safety Officer  
Other Interested Parties

**NOT PRESENT:**

Legislator Martin Haley

**Minutes Taken By:**

Kimberly Castiglione, Legislative Secretary

*(The meeting was called to order at 10:15 a.m.)*

**CHAIRPERSON FIELDS:**

We will start with the Pledge of Allegiance led by Legislator Postal.

*(Salutation)*

Good morning. We called this meeting today because the Bay Shore Health Center has been closed after some difficulties related to air quality. I have a couple of cards here that I guess we'll begin with since they filled out the cards. That is James Meade and Akiva Kobre from Touro College. Good morning. You can come up to the front desk here, I guess. Why don't you have a seat.

**MR. KOBRE:**

Thank you. Good morning. We were invited by this committee to address the issues.

**CHAIRPERSON FIELDS:**

Can you identify yourself for the stenographer, please?

**MR. KOBRE:**

Yes. My name is Akiva Kobre. I am the Vice President for Administration Operators for Touro College. With me is Mr. James Meade, who is the manager of our facility in Bay Shore, 1700 Union Boulevard.

**CHAIRPERSON FIELDS:**

Are you here to answer questions or just to comment on the situation?

**MR. KOBRE:**

I was invited as a guest. Of course I will both comment and respond to any issues that are raised.

**CHAIRPERSON FIELDS:**

Okay. I think probably then – I thought maybe you had a statement and that is why I called you up. Maybe you can kind of just stay there for a while.

I am going to call on the Budget Review Office to give us a little bit of a history of the whole health center situation, so that we can all be clear about what has taken place thus far.

**MR. POLLERT:**

The Health Department's Bay Shore Health Center was located in a County owned building that was constructed in approximately the 1970's. The building was transferred to Touro by legislative resolution. As part of the resolution, the County transferred the building together with making appropriations for renovations to the building so that Touro could install an elevator and make other modifications so that the clients of the Health Center would be separated from the students at the Touro Health Center.

The Budget Review Office in our capital program reports had identified from just about the beginning of the lease that there were continuing problems with the air quality at the Bay Shore Center. The County was under the impression that modifications to the building would remedy a great many of the air problems at the Bay Shore Health Center. That, in fact, proved not to be the case.

The Budget Review Office had to make recommendations that because of the large number of TB patients handled at Bay Shore that modifications be made to the building to create negative pressure rooms. That was not part of the lease with Touro. Those modifications were never made because the County was in a short-term free rental type of condition. It was decided that the County should not invest capital funds to make those types of renovations. That was one of the first problems that we had identified.

In subsequent both operating budget and capital program reports, we had identified that there were numerous problems with the HVAC system and that there were difficulties with dealing with the landlord, who the Health Department found to be non-responsive. At that point in time we made a recommendation that prior to entering into an agreement with Touro to construct some additional courtrooms at their new law location adjacent to the Cohalan Court Complex, that the County attempt to resolve problems with Touro.

Last year there was a hearing and an air quality report that was done at the request of the Health Department that attempted to identify problems with the odors and with the air

handling systems at Touro. The report was done by the Department of Public Works. It was a comprehensive report and there was a hearing before the Legislature on the results of the report. It found in part that the bulk of the problems with the odors were emanating from the autopsy room in the Touro Health Center. So that the problems have been documented in the Budget Review Office reports over a number of years.

**LEGISLATOR FOLEY:**

Madam Chair, before we hear from Touro, I think it would be instructive to the committee and for the record to hear from the Health Department and also some of the employees of the Health Department who are here prior to having Touro speak about or respond to some of these very serious problems.

**CHAIRPERSON FIELDS:**

Commissioner Bradley and anyone else from your department. Maybe the two gentlemen from Touro could step back for a couple of minutes because it looks like we have a larger crowd, and then we will call you back. Thank you.

**COMM. BRADLEY:**

There are also people here from Public Works that have been working with us on some of these issues. You may want to have them come up with us because they did that report.

**CHAIRPERSON FIELDS:**

Can we have DPW come up? Perhaps you could just outline what has happened and where we are and the status of what we are at now.

**COMM. BRADLEY:**

Okay. There were problems a few years ago in terms of air-conditioning issues. That is also HVAC. Those were resolved with the implementation of new air-conditioning units in the building.

**CHAIRPERSON FIELDS:**

When was that?

**COMM. BRADLEY:**

That was '98, '99. So that the issue that led to the closure of the health center is unrelated to that. This is issues that have been going on for about almost a year with employee complaints of air quality problems in terms of smells and some individuals complaining of upper respiratory type problems.

When we received those complaints we did a couple of things. One was have our public and environmental health lab, and Kenny Hill is here from the lab, go in and do some air quality testing to try to identify if there was a source that led to the problem. We also reached out to Public Works to help us with some of these assessments, and we attempted – Jim Alipo is also here, the safety officer got involved. We also reached out to Touro to try to identify what our problems were. We needed a better understanding of the HVAC system in the building, not just our immediate rooms. There were also some problems that the fire marshal was also involved because of odors in the building and there had been some evacuations, short-term evacuations of the building.

**CHAIRPERSON FIELDS:**

Can you identify the problems that were going on at the time, not just allude to that there were some problems, but what were the actual problems?

**COMM. BRADLEY:**

We had employees complaining of symptomatology, that they would go to their provider, and although the provider said yes, this employee has something, there was no link to something back in the building.

When Kenny Hill went in and did air sampling, he found some identified chemicals, and it would vary from time to time. He did find formaldehyde in the building. It was not at a level that OSHA would comment or that we could say we can no longer occupy the building. It was at a level that employees would smell the formaldehyde, and that precipitated the investigation of the entire building because of the autopsy room. So we wanted a better understanding of what was the ventilation system that they had an autopsy room, yet our employees were smelling the chemical. When Public Works did an assessment of the building after we got the floor plans and Public Works went in and did an assessment, their feeling was that the ventilation from the autopsy room was inadequate and that was what was causing the recirculation of some of these fumes. They also identified other issues. But that was the most critical to us at that time.

**CHAIRPERSON FIELDS:**

What were some of the other issues, and give me just a timeframe of when this was going on.

**COMM. BRADLEY:**

When did you do your report, Mike?

**MR. MONAGHAN:**

I conducted my survey –

**CHAIRPERSON FIELDS:**

Can you identify yourself and also speak into the microphone.

**MR. MONAGHAN:**

Sure. Good morning. I am Mike Monaghan from the Suffolk County Public Works Department. I conducted a survey on October 5<sup>th</sup> of 2000 and wrote my report subsequently during the month of October and I believe it was issued on November 6<sup>th</sup>, on or about.

**COMM. BRADLEY:**

I think it would be better coming from you, if you could – besides the ventilation from the autopsy room, some of the other issues that you identified as concerns in terms of HVAC.

**MR. MONAGHAN:**

Okay. The major items I was concerned with were the exhausts from some of the fume hood systems and the boiler stacks. They basically were in a position on the roof where they could be recirculated into the existing air handling units.

Subsequent to that we had a meeting with the County Attorney's Office and Touro College at which point they began to address those issues. I believe in February –

**CHAIRPERSON FIELDS:**

Who is they?

**MR. MONAGHAN:**

Touro College. At that time, approximately February 2001, they started to address those issues and installed some additional duct work, raised some stacks, to begin to address the problems.

**CHAIRPERSON FIELDS:**

When the employees were complaining, aside from the fact that they were complaining about odors, what were some of the other issues they were complaining about?

**COMM. BRADLEY:**

Back at that time they were mainly upper respiratory symptoms.

**CHAIRPERSON FIELDS:**

Such as?

**COMM. BRADLEY:**

Sore throat, burning eyes, running nose, those type of things. There may have been one or two people that had asthma, that had conditions of asthma already, and it was exacerbated in the building. We have Mike's report right here from Public Works.

**CHAIRPERSON FIELDS:**

Commissioner Bradley, were patients complaining about it?

**COMM. BRADLEY:**

Not at that time, no. It was mainly employees.

**CHAIRPERSON FIELDS:**

How many employees?

**COMM. BRADLEY:**

Five, six originally. I mean, it has increased over the last month. Last month there was a significant increase in the number of employees who have started to complain.

Once the renovations were done after that meeting, it almost seemed as if more people started complaining. We looked at it and said well what is going on. We quickly realized that the system had not been balanced after the modification was done to the HVAC system. So we on a regular basis -- well, when are you going to balance the system, you have to balance the system, yeah, you made the modification, but that didn't solve the problem. You need to balance the system. So then we go into issues about whether the entire building was going to be balanced or just the Touro side of the building. As of today, the balancing has still not occurred.

There also have been issues about keeping the HVAC system on when we are in the building providing services, and to the best of my knowledge, they are not kept on the entire time that we are in the building.

Because of the uses of the building in terms of the chemical labs, in terms of the autopsy lab, we feel that the fresh air intake is not adequate for those functions alongside our functions in the building. We don't think ten percent is adequate. Is there a code, is there a regulation that says it has to be higher? No, we can't find one. But we feel that anytime there is a chemical that is used in the building, that the HVAC system does not clear it adequately and we smell it.

Over the last month or so employees started having rashes in addition to the upper respiratory complaints. Again, we couldn't associate a rash with a chemical, but it got to the point where it was a regular occurrence and I didn't feel like we could leave employees in there getting sick in the building, especially knowing that the system was not balanced, it wasn't left on when we were in the building, and every time a chemical was used, as I have said, the employees would appreciate it.

There was one value on one day associated when we had to evacuate the building. I believe it was methylene chloride. It was extremely high. That was a momentary increase. By the next day it was down. I believe they used a chemical by their handling system and Kenny Hill picked up that at a very high level but it came right back down.

**CHAIRPERSON FIELDS:**

Didn't also the New York State -- we employ other people in the building. Didn't New York State pull their nurses out of the building?

**COMM. BRADLEY:**

I am not sure they were nurses, but they relocated some of their sexually transmitted disease staff. They have another building in Hauppauge and –

**CHAIRPERSON FIELDS:**

Because of this problem, right?

**COMM. BRADLEY:**

Yes.

**CHAIRPERSON FIELDS:**

How long ago was that?

**COMM. BRADLEY:**

That was months ago, the fall.

**MS. CARBONETTO:**

Last year.

**CHAIRPERSON FIELDS:**

Okay. Go ahead.

**COMM. BRADLEY:**

Well, I think –

**CHAIRPERSON FIELDS:**

Let me remind you, I know we spoken about it at one of the Health Committee meetings. We had asked, because I had gotten some phone calls from some people who were working there, and when we discussed it with you, you said that you were working with Touro and that you had requested the plans, but you can just tell me was it or was it not easy to get the plans from them. Were they or were they not cooperative in giving the County the information we needed to try to assess what the problem was.

**COMM. BRADLEY:**

They weren't agreeable the first time we asked. It took a lot of back and forth and I think it actually took either the fire marshal or the police to help us to get those plans.

**CHAIRPERSON FIELDS:**

And the police also occupy part of the building, correct, and is anybody here from the Police Department? Well, I got a phone call from the Police Department and they said that they were having some issues with this too, but I guess we can't really identify that. Does anybody have any questions for the Commissioner?

**LEGISLATOR ALDEN:**

Commissioner, I apologize. I missed the first like ten minutes of your – did you go over what air tests that you conducted in there?

**CHAIRPERSON FIELDS:**

Is Kenny Hill here?

**COMM. BRADLEY:**

He is here.

**MR. HILL:**

Hi. My name is Ken Hill. I am with the Public and Environmental Health Laboratory. We have been conducting tests since I believe around 1999 of November for various volatile organic compounds when there were odor complaints which are typically associated with those type of complaints. And then later on we started to test for some of the aldehydes, including formaldehyde, with concerns regarding the gross anatomy lab on the third floor.



**LEGISLATOR ALDEN:**

And what did you find?

**MR. HILL:**

It is voluminous. I have –

**LEGISLATOR ALDEN:**

Let me rephrase the question, then.

**MR. HILL:**

I can provide a chart that shows you min-max ranges, if you want to see that.

**LEGISLATOR ALDEN:**

You know what, you guys are experts, so in your expert opinion what you found could cause the problems or that is what precipitated pulling the people out of there, closing this health clinic.

**MR. HILL:**

The concentrations were never really approaching OSHA levels or cut-off values, standards, but we were seeing chemicals that are associated with that gross anatomy lab. We were seeing methanol, phenolal, formaldehyde, three of the components that when I was given MSDS sheets from Mr. Meade from Touro contained those compounds. And we have found other chemicals. The first time we had the evacuation, which was, as Dr. Bradley explained, the maintenance of a HVAC system, they were spraying a methylene chloride compound on to the heat exchanger to clean it, and we have had levels up to 5,000 PPB of methylene chloride.

**CHAIRPERSON FIELDS:**

Is that a carcinogenic?

**MR. HILL:**

It is considered to be a carcinogenic.

**LEGISLATOR ALDEN:**

The 5,000 level, that is a dangerous level?

**MR. HILL:**

That is still not the OSHA level. I believe, and I don't put these to memory, I believe it was around 25 PPM, which would be – this would be about one-fifth of that. But it is also the transient affect of it being sprayed on and getting down into a particular room where we had this pump. We had left pumps with traps in the room with employees and they were instructed when they would smell something to turn a pump on so we could try to capture the air at that time for analysis.

**LEGISLATOR ALDEN:**

From the air tests, and I am not sure if you went over this, can you directly attribute the problems that some employees are having to what you found in these air tests?

**MR. HILL:**

No, I wouldn't say –

**LEGISLATOR ALDEN:**

Because you mentioned rash and you mentioned some upper respiratory type problems.

**COMM. BRADLEY:**

No, we can't. And if it were just the air tests and I had those and we were monitoring and I didn't have employee complaints, I wouldn't have acted on them because there was nothing at such a level that I would say we have to evacuate that building. It was the persistence of employees with complaints, upper respiratory, now people complaining of rashes, and over

the last two or three weeks, an occasional patient would experience problems.

**LEGISLATOR ALDEN:**

The rashes and the upper respiratory, we have documented them? Those people have seen doctors and – so all that documentation is going to be available.

**COMM. BRADLEY:**

Yes. Well, I don't know if you can have access to it.

**LEGISLATOR ALDEN:**

No, no –

**COMM. BRADLEY:**

They have gone to see their providers, yes.

**LEGISLATOR ALDEN:**

Okay. And again, we haven't established a casual link between the air quality and that.

**COMM. BRADLEY:**

No.

**LEGISLATOR ALDEN:**

Just on another note. We are into about the third or fourth year of I believe it was a seven year phase out in there. Do we have a set of plans as to where we were going to relocate the Bay Shore Clinic to anyway?

**COMM. BRADLEY:**

We have started looking in the community for sites with the hopes that in two or three years when the lease is up that we would move to another site – well, we have to. When the lease is up, we have to leave, so we have started looking.

**CHAIRPERSON FIELDS:**

Can I just interrupt on the same question that you had? The patients that identified a problem, how many were they?

**COMM. BRADLEY:**

He is telling me about ten to 12.

**CHAIRPERSON FIELDS:**

And the employees who complained and went to the emergency room, I am assuming they have been relocated to another site.

**COMM. BRADLEY:**

All of the employees have been relocated, mainly to the Brentwood Health Center.

**CHAIRPERSON FIELDS:**

Have their symptoms diminished or disappeared?

**COMM. BRADLEY:**

Yes.

**CHAIRPERSON FIELDS:**

Completely? I sorry, Legislator Alden. Go ahead.

**LEGISLATOR ALDEN:**

That might indicate then – so you are not having across the board symptoms, it is just individual employees.

**COMM. BRADLEY:**

Originally it was certain groups of employees, mainly on the first floor. Over the last month or so it has increased the number on the second floor. So it added to the first floor. We now



have people on the second floor who are starting to complain in the health center proper.

**LEGISLATOR ALDEN:**

We heard testimony at the last – I guess it was our last general session, about what happened out in Coram, that there was problems in the Coram Health Center where we actually didn't have water. We had things that were in violation of New York State Law and also of our own Suffolk County Health Code. Why are we treating Bay Shore so much differently than we treated Coram?

**COMM. BRADLEY:**

When there was no water at Coram, we called patients and had them go to other facilities.

**LEGISLATOR ALDEN:**

Our employees still were required to report to work out there.

**COMM. BRADLEY:**

Correct, and we brought water in for use in terms of hand washing. We only saw those people that walked in with emergency problems. All other people were routed to other health centers.

**LEGISLATOR ALDEN:**

Just going back to – I know there is only two or possibly three years left to go on the lease anyway. On an emergency basis have you – you put people out there now like the Space Management Committee and things like that? Are we actively looking for someplace to relocate?

**COMM. BRADLEY:**

Yes, but that is going to take significant lead time to get into another place. My goal is that we remedy the problems in the building and get back in.

**LEGISLATOR ALDEN:**

Good, because what I am worried about is like my constituents -- predominantly my constituents use the Bay Shore Health Center, and if we plan on closing that, I am already getting a ton of complaints now. So we don't plan on closing that.

**COMM. BRADLEY:**

No, but we have to get the HVAC system where it is working so that I don't have nine people let's say on a Monday going to the emergency room –

**LEGISLATOR ALDEN:**

I agree with you. You can't put people's lives in jeopardy. You are right.

**COMM. BRADLEY:**

My goal is to get back in there. We have again, besides Mike's report, we have listed a minimum of three things that have to be corrected before we can go back into the building.

**LEGISLATOR ALDEN:**

Is anybody here from the County Attorney's Office? Yes? The questions I have for you would be more relevant and actually would probably require an executive session so I am not going to do that. But as long as you are available, then at some point in time I will have a conversation with you. Thank you, Madam Chair.

**CHAIRPERSON FIELDS:**

Legislator Foley.

**LEGISLATOR FOLEY:**

Thank you, Madam Chair. There is really a whole host of questions, and more will no doubt arise as we hear more testimony from the various speakers. Commissioner, don't the

problems actually, the HVAC problems, begin not last fall but date back to July of 1999? It is a rhetorical question. It is my understanding that they do. Part of the analysis that we are receiving from the Budget Review Office reviewing the capital program, looking at the infrastructure of the different departments and the offices that the different departments utilize, part of their analysis has shown, and the record should be clear on this, that during a heat wave in July of 1999 the building's HVAC system experienced problems leaving the health center with no air-conditioning. Temperatures inside the health center were so high for a number of weeks, not days, but weeks, that many patients cancelled visits, some actually fainted during visits, and staff members became sick with heat exhaustion. And at one point, Madam Chair, the health center was closed down for one day when the temperature inside reached 110 degrees.

So, in other words, Commissioner, these problems just didn't begin last fall, but were actually two years earlier – a year earlier. So we have to ask ourselves again, it is a series of questions, but the very beginning one is not what happened last fall, but what took place bureaucratically the summer, July of 1999, from that point forward to try to address the problems that you are still trying to address today, which is the harder issue, which is the heating, ventilation and air-conditioning. It didn't start last fall, it didn't start last month, but in fact July of 1999.

We actually have to go back a year earlier to see what has been – what you have tried to do. How has the County Attorney's Office used its powers to try to persuade the landlord to do the right thing in this case? What really – I could say this, Madam Chair. What annoys me the most is the fact that we had over a period of time worked in good faith with Touro when the building was conveyed to the town and then to Touro with help from federal funding. But it appears to me, and I am ready and willing and able to listen to Touro at a later time this morning, but it appears to me that because of this long period of time we are seeing in essence Coram two that we have a landlord who is not willing – not showing the ability, if you will, to respond to the employee's complaints.

Can you just walk us through, and I think it is important, Madam Chair, that we hear this, that in fact the problems don't begin last fall, they begin in July of 1999. A verbal representation from you would be helpful but I would imagine that you must have some memoranda that would identify these problems from that period forward and how and why no remedy to this date has surfaced to the point now that we have employees who have – who won't go in the building, and we have other State employees who refuse to go in the building in fact go to other buildings. So we really have to go back to July of 1999, if you could fill us in on that. Thank you. And that is just the first series of questions, Madam Chair.

**COMM. BRADLEY:**

I am going to ask Anne Marie, who was involved on a daily basis. I mean, I know the problems that we have had with the air-conditioning, but she could probably go into more detail in terms of what the problems were and how we solved them in terms of the timeframe than I could.

**MS. CARBONETTO:**

Actually, in June of 1999 we had a complaint from OSHA because there was no air-conditioning in the building that we had to respond to. I had to respond to that and I did. I had 15 days to respond to it and I sent a letter to OSHA that Touro had corrected those malfunctions.

In July, then, we had again another issue where we had temperatures in the high 80's, low 90's. In July of 1999 the County Attorney sent a letter to Touro requesting that the air-conditioning renovation begin. Touro -- in July again we had a meeting with the County Attorney, our department, and they agreed that they would provide a temporary chiller, which is a truck mounted chiller because they weren't going to correct the air-conditioning problems until the fall of that year.

**LEGISLATOR FOLEY:**

If you could just stay on that point for a moment. That is very important. Here we are in

the middle of the summertime and the landlord is saying that they are not going to correct the problems until the fall, after the hot season so to speak. What reasons did they give that they were going to wait until the cooler months to fix an air-conditioning system, and what did the County Attorney's Office try to do to use the full force of law and the power of the County to require the landlord to fix it over the summertime?

**MS. CARBONETTO:**

I think part of the issue was them getting parts, too, and that is why it was going to take that length of time to get whatever they needed.

**LEGISLATOR FOLEY:**

All right. But was there a formal response to the County Attorney's Office request from the landlord as to why it would take them three or four months to fix a problem that needed to be fixed immediately.

**MS. CARBONETTO:**

I guess the County Attorney is going to have to answer that.

**LEGISLATOR FOLEY:**

We have to ask that question to Mr. Garfinkle. Thank you. Go on, please.

**MS. CARBONETTO:**

We had some problems in October of 1999 with odors.

**CHAIRPERSON FIELDS:**

Can I interrupt one second? Does Touro have classes in the summertime? Do they have students in the building in the summertime?

**COMM. BRADLEY:**

We would be answering for them.

**CHAIRPERSON FIELDS:**

Are you aware of whether or not they do? I will ask them.

**COMM. BRADLEY:**

I am trying to remember when they started.

**CHAIRPERSON FIELDS:**

Okay. Go ahead. I am just wondering if the possibility is that they weren't going to fix it until their students came back.

**COMM. BRADLEY:**

When we were having those significant problems with air-conditioning, they weren't in the building yet.

**CHAIRPERSON FIELDS:**

Okay. Thank you.

**MS. CARBONETTO:**

In October of 1999 we had some odor problems, too. We got the safety officer, the County Safety Officer and Environmental Quality Ken Hill's people to do some sampling. What they found was in November Ken found some readings of freon 22 and we attributed that to they were at that point replacing the air-conditioning unit.

**LEGISLATOR FOLEY:**

In October.

**MS. CARBONETTO:**

In October of 1999. And then in the spring of 2000 is when we again started getting employees complaining of odors and the quality of air.

**LEGISLATOR FOLEY:**

Excuse me for interrupting. Were there formal complaints submitted by County employees, or was it just phone calls that were being made? Did the union submit any formal complaints on behalf of their membership?

**CHAIRPERSON FIELDS:**

Gene Durney is in the back. He might know that.

**MS. CARBONETTO:**

You have to remember, too, a lot of the employees in the health center aren't all County employees. There are some Southside employees.

**LEGISLATOR FOLEY:**

We understand that. Mr. Durney, if you could just take a seat first. There is a microphone right there. We are in the spring of 2000, correct, Anne Marie? So the question now is the nature of the complaints from County employees, were they verbal in nature, were they formal complaints written by the employees? Were the complaints raised submitted by the union as well?

**MR. DURNEY:**

The answer is all of the above. Essentially during that timeframe a number of our County employees at that particular point in time whenever they indicated that they were having symptomatology we asked them to either seek emergency – I'm sorry, our own staff of the health center or their own provider. They also filed worker's compensation claims at that point. So that has been going on a relatively long time.

As far as I know, I don't have any firsthand knowledge, but I have talked to the union people and met with them down at the health center on a number of occasions. They were very aware. They were present with me on more than – I think on three occasions when we went through the building as far as we could go through the building.

**CHAIRPERSON FIELDS:**

What do you mean as far as you could go through the building?

**MR. DURNEY:**

Well, there was a period of time when it was difficult to get access to any part of the building aside from the health center –

**CHAIRPERSON FIELDS:**

Difficult that the building was locked and you didn't have a key? Or difficult that you asked Touro to let you through and they would not cooperate.

**MR. DURNEY:**

We could get into the public portions of the building, okay –

**CHAIRPERSON FIELDS:**

But they would not let you into the other portions of the building?

**MR. DURNEY:**

That is correct. As a matter of fact, we did not gain access to the other portions of the building until September, I believe, of 2000. That was following the first emergency evacuation of the staff from the building.

**CHAIRPERSON FIELDS:**

Did anyone ever indicate why they would not give you access?

**MR. DURNEY:**

Not particularly, no.

**CHAIRPERSON FIELDS:**

Does anyone know why we weren't able –

**MR. DURNEY:**

I think you would have to ask –

**CHAIRPERSON FIELDS:**

No, I mean no one here has been told. Okay. Thank you.

**MR. DURNEY:**

It was never explained to us.

**LEGISLATOR FOLEY:**

Just as a follow-up. That is just a point that here we are a County government. If we are seeking to enter another area of a building that we suspect is the cause of the problems affecting our County employees and you are not receiving cooperation, the department is not receiving cooperation from the landlord, did not then the department decide to speak with our County Attorney's Office –

**MR. DURNEY:**

Let me just –

**LEGISLATOR FOLEY:**

Let me finish the question, Gene. You have a lot of ability, you'll be able to have two thoughts in your mind at the same time. So the question now is if the department was being frustrated by the landlord, how did the department go about utilizing the powers of County government through our County Attorney's Office to gain access? And my final question is from the first time you requested the landlord to gain access, how long did it take until you actually did gain access. I'm sorry, Gene.

**MR. DURNEY:**

I wanted to finish the answer.

**LEGISLATOR FOLEY:**

Yeah, with the complaints.

**MR. DURNEY:**

In terms of the complaints. There were also at that time, again, in September of 2000, when we got a trickle of client complaints or patient complaints, mainly from our first floor staff which was basically WIC and I believe family planning staff. So we did get written complaints from two or three.

**LEGISLATOR FOLEY:**

So it was serious enough on the first floor you got written complaints.

**MR. DURNEY:**

Yes.

**LEGISLATOR FOLEY:**

Particularly from the Women, Infant and Children Division.

**MR. DURNEY:**

That is correct.

**LEGISLATOR FOLEY:**

Does that also mean that women with their infants were in the building at those times as well?

**MR. DURNEY:**

Yes.

**LEGISLATOR FOLEY:**

So what that further means, then, Madam Chair, is among the most vulnerable of clients to a health center, which is young infants, was that part of the health center that had the biggest problem, so to speak, because of the fact that that is where some of the written complaints were coming from -- from that very area. That even if it didn't reach OSHA standards -- OSHA violations, the fact of the matter is women with young children, infants, and pregnant women were making complaints and employees who were servicing those people were making complaints. That to my mind makes it even more egregious. But please go ahead, Mr. Durney.

**MR. DURNEY:**

I think to a certain extent Anne Marie can comment more in terms of the other things, but I think in terms of around the summer of 2000, and she can probably assign more specific dates, we sampled the air. There were numerous requests by our Safety Officer Tutoro for the reports that we needed. There was a meeting held I believe in September of 2000, Anne Marie, with the Commissioner to review the environmental quality report. AME at that point became very active in September. They asked for information about the air quality problems. There was a whole scheme of things that were going on at that time.

**MS. CARBONETTO:**

I would like to add, too, that in May we did go with Touro -- Ken Hill, Mike Meyers and myself, we toured the facility, so they did let us in. What they didn't do was they didn't give us access to all the stuff we needed and they didn't give us some of the drawings that we had been asking for. We did go before September, we did go into their side of the building.

**LEGISLATOR FOLEY:**

When you didn't receive the requested documentation, did you then speak with the County Attorney's Office to try to get the County Attorney to require the landlord to furnish the department with the information that you believe was necessarily to protect the employees?

**MS. CARBONETTO:**

I don't remember.

**LEGISLATOR FOLEY:**

We'll have to ask the County Attorney that question. Mr. Durney, back to the point where you mention that there was some worker compensation claims filed. Did some employees, in fact, go out on worker's compensation?

**MR. DURNEY:**

There were employees who left the facility and went home. To my knowledge -- and again, I am not completely clear. There were a couple of things that occurred during that period of time. In terms of our WIC's staff, for example, in order to ameliorate the problems that they were experiencing, we began a rotational system where essentially all of the employees were being rotated on a daily basis almost. Now, that, from a management point of view, is not the way to run an airline, but it at least alleviated the problem of the workers coming into the building and performing the functions that they had to perform.

**LEGISLATOR FOLEY:**

How about the young children, though. I don't mean to sound dramatic, but it is important. What about the infants and the pregnant women who were in that same part of the building where most complaints were being received?

**MR. DURNEY:**

The overwhelming majority of complaints were from employees. We did receive two or three written complaints from patients about odors. There was nothing -- I think it is very -- I think you have to understand that there is a difference between coming in and doing perhaps a 30 minute interview where the baby then leaves the building, and someone who is there all day.

**LEGISLATOR FOLEY:**

I understand that.



**CHAIRPERSON FIELDS:**

But you know what? Being a Legislator, and I think we can all agree to this, most of the time you don't hear from someone unless there really is a problem. For someone to be a patient and sit down and write a letter, there must have really been a problem.

**MR. DURNEY:**

First of all, we have complaint forms at the health center, all of the health centers. If somebody wants to make a complaint, we have a form for it. We have a form for everything. So that is taken in due course. I mean, I wouldn't even want to indicate that that health center is the only center that we get complaints filed on.

**CHAIRPERSON FIELDS:**

I am taking about these complaints, though.

**MR. DURNEY:**

These particular complaints that's true. I think in terms of the employees, though, that their complaints were much more voluminous. I think the other position that we were in at that point is that we knew we had a problem, we knew that certain employees were experiencing certain symptomatology but none of it ever went to the level of exceeding OSHA or PESH standards. So, quite frankly, anybody that has been in this position before, you are in a kind of limbo in terms of what you can and can't do.

**LEGISLATOR FOLEY:**

Can I just follow-up, if I may, on that point, Madam Chair? Even though it didn't reach let's say the OSHA violation standards, I think we all would agree that we still wouldn't want our employees – I wouldn't want my staff, for instance, or anyone in other people's staffs to work continuously in an environment that may not – while it may not be a violation of OSHA, the fact of the matter is it still has reached a level that is not only uncomfortable but is impacting the work and impacting the day's work of those employees. Is that not correct? So even if it doesn't reach the OSHA standards, maybe it is a management issue here, that even if it doesn't reach OSHA standards of violations, that just because – simply because they are elevated readings that that should trigger alarm bells, if you will, that need to be explored. So this OSHA standard, yeah, on one hand it is important, but on the other hand to me that is not the threshold that really needs to be here. It is when we're – complaints are being made even where it isn't reaching OSHA violations.

**MR. DURNEY:**

And I wouldn't want to give the impression that that is not the case. The fact is that the response is incremental. I am just pointing out the fact that you have more at your disposal and means if God forbid you do go over those standards. I think the point is we did rotate staff, we tried to accommodate certain staff, certain staff that were having severe problems, for example. I believe Scott Williams transferred a couple of the Southside Hospital employees -- essentially were transferred back to the hospital for at least a temporary period of time. And all during this period understand also that there were certain actions that were being taken and not as fast perhaps as we wanted them to be taken. The point is that after Mike Monaghan's report was put out there identifying very specific regulatory problems having to do with the air quality in the building and also identifying the physical problems, that action was taken to reconstruct certain duct work and also the exhaust system.

In my opinion, what should have occurred immediately after that and which didn't and I think it is why we are here today, is that the system wasn't balanced immediately and effectively and it still hasn't been balanced. We also during this period of time made it very clear to Touro that we didn't think and quite frankly, we know that there is not enough fresh airflow being allowed into the building under the current system. If you go there, there is a huge difference entering their side and our side. I am just talking as a layperson. Entering their part of the building where you breathe very easily, you feel a breeze going across your body. If you come into our health center it is like sipping air through a straw. That is how it has been described to me and I have experienced that.

**CHAIRPERSON FIELDS:**

To date? I mean, up until it was closed?

**MR. DURNEY:**

Yeah.

**CHAIRPERSON FIELDS:**

It is my understanding that the system is turned off on the weekends and in the evenings also on the Touro side which in turn impacts our side.

**MR. DURNEY:**

And that was the third issue I was going to go into. It hasn't been balanced, there is not enough air flow, and we have situations where the system is not put on early enough in terms of people who are going to occupy the building, and it is turned off prior to all of our employees leaving the building.

**CHAIRPERSON FIELDS:**

Do we have hours on Saturdays in the health center?

**MR. DURNEY:**

Yes, I believe we do. There are nine of them, so –

**CHAIRPERSON FIELDS:**

And on Saturdays the system is off.

**AUDIENCE MEMBER:**

It is on for the duration we are there.

**MR. DURNEY:**

There are certain days when we have hours where it is shut off before all of our staff leaves the building. That is not necessarily connected to the hours. We have people that work overtime, we have people that work that clean the building. We have all sorts of different individuals that are in there after the normal working hours of the health center, or before.

**CHAIRPERSON FIELDS:**

Is someone here from Southside Hospital that could – wait one second. We are being requested to finish here first.

**MR. DURNEY:**

I think to a certain extent anything that Southside – we talk, believe me, on this issue daily.

**LEGISLATOR FOLEY:**

Thank you, Madam Chair. I think we've reached the spring to the summer of 2000. Gene spoke about September of 2000. So, Anne Marie, now we've reached a point and if I am leapfrogging anything please tell me. Now we have reached a point of the October 6<sup>th</sup> memorandum from Mr. Monaghan. Is that the next piece that you were going to mention?

**MS. CARBONETTO:**

Prior to that then we had an evacuation.

**LEGISLATOR FOLEY:**

We were in the spring of 2000, so if you want to go from there to –

**MS. CARBONETTO:**

I think Gene told you most of the things that we got requests from AME, from different agencies. We were having problems, difficulties with Touro getting the drawings and access that we needed for Mike.

**LEGISLATOR FOLEY:**

This is for Mr. Monaghan. When the improvements were made by Touro, did they give you

the courtesy of inspecting the purported improvements that they made to the machinery, and did you ask to inspect it?

**MR. MONAGHAN:**

Are you referring to the improvements they did in February of 2001?

**LEGISLATOR FOLEY:**

Well, were there any made in 2000? Let's go back to the fall of 1999 when they finally did make some purported improvements to the air-conditioning units.

**MR. MONAGHAN:**

No, I was not involved in the project at that point.

**LEGISLATOR FOLEY:**

Was there anyone from either of the two departments that inspected the work done by the landlord, or was it simply the case at that point you had complete confidence that they would do the job right?

**MR. LAGUARDIA:**

No, we didn't inspect it, Legislator Foley.

**CHAIRPERSON FIELDS:**

Can you just state your name?

**MR. LAGUARDIA:**

I am Tom LaGuardia. I work for Public Works. The proof is that we had air-conditioning back and operating in the building and it was their maintenance job so we did not inspect it.

**LEGISLATOR FOLEY:**

Okay. So now we are in the summer of 2000.

**MS. CARBONETTA:**

Well, in September of 2000 we had the odor and the evacuation and we traced that odor to Touro had a contractor in cleaning the duct work and the odor came through the duct work and affected our employees and that is when we evacuated the building. It was also -- they said there was a propane odor and the fire department responded as did OSHA and PESH.

**LEGISLATOR FOLEY:**

Okay.

**MS. CARBONETTA:**

And we did notify the County Attorney that we evacuated the building. I can say that we did that.

**LEGISLATOR FOLEY:**

Now that triggered Mr. Monaghan's report.

**MS. CARBONETTA:**

We had been working on it prior to that. It just helped it along a little.

**LEGISLATOR FOLEY:**

Okay. So, when this was issued in October of 2000, that is when this series of meetings were held -- among whom? I am looking at the October 6<sup>th</sup> 2000 date of the Monaghan report to you, Anne Marie, concerning the HVAC investigation at the Mini Center. If I have skipped over some chronology you want to make us aware of, just fill in the blanks.

**COMM. BRADLEY:**

I was just going to say there were several meetings around that time, most of them with Health Department staff. We actually conferenced in with the State Health Department trying to get an idea whether there were some standards that we could apply in terms of the

functions on the other side of the building, in terms of autopsy rooms and chemicals, and didn't find anything there. We also at that point besides bringing in Public Works also had County Attorneys with us at some of the meetings and Southside was also at the meetings.

**LEGISLATOR FOLEY:**

Was that the first time that the County Attorney's Office was brought into the picture?

**COMM. BRADLEY:**

With the air-conditioning.

**MS. CARBONETTA:**

We have always copied them on anything that we've sent to Touro, any correspondence.

**LEGISLATOR FOLEY:**

My point is, and I am not trying to nitpick, but I think, again, I believe it is an instructive question, if there were documents, if there were blueprints that you needed far early in this whole process and the landlord was unwilling to give them to you, did you at that time request the County Attorney's Office to get involved in order to get those documents that you had not received up until that point.

The question is out there, the County Attorney's no doubt thinking about it, and he will give us an answer. But it is important, and you know why I am asking the question, that if – hopefully we won't have these problems in the future, but if we have landlords out there that are not cooperating with the County or not cooperating with a particular department, then as opposed to waiting six or nine months or however late to bring in the County Attorney's Office, let's do it right away. Bring in the full force and the authority of the County government to bear on a, not just a recalcitrant landlord, but an unwilling and uncooperative one as opposed to waiting a long period of time. Mr. Durney.

**MR. DURNEY:**

I think you have to kind of distinguish between the first air-conditioning problem and the second air-conditioning problem. I think there was great hope that once the initial problem was completed or the air-conditioning was restored, that that would be the end of the problems. We all live in hope and die in despair. But I think the point very simply is that there was a fall-off of problems, there was a fall-off of complaints, there was a fall-off of in terms of the building itself. It didn't heat up until the fall of 2000. The point – I think the actions at that point were, "Oh my God, it's back, we've got to start looking into it again." I think you also have to understand that you don't want to go forward with something until you understand and have the facts at your command.

I think the major point clear and simple is that once Mr. Monaghan made his report there was a review of that report in October or November of 2000 and the County Attorney's Office was asked to get involved at that time.

**CHAIRPERSON FIELDS:**

Anne Marie, do you have a copy of the chronology of all these? Can we get a copy of that, please?

**LEGISLATOR FOLEY:**

Thank you. That is all I have, Madam Chair.

**CHAIRPERSON FIELDS:**

Once the report was issued from Michael Monaghan, and I have a copy of that here where it looks like there were numerous violations. This was then – what happened with this report? It was submitted to who?

**MR. MONAGHAN:**

Excuse me. Legislator Fields, it was issued to Anne Marie Carbonetto at which point I guess she'll have to –

**CHAIRPERSON FIELDS:**

Okay. Anne Marie, what happened once you got this report? And this is a report that goes – well, the pages aren't numbered but --

**MS. CARBONETTO:**

We did share it with Touro and we requested the County Attorney to get involved and we had a meeting with Touro College.

**CHAIRPERSON FIELDS:**

And the response to that was?

**MS. CARBONETTO:**

They agreed to do some of the corrections and I think we were happy with the things that they were doing. We thought that the certain things that they were doing were enough to address –

**COMM. BRADLEY:**

We thought they were the most serious.

**CHAIRPERSON FIELDS:**

What about the least serious? Why did they choose not to do all of these?

**COMM. BRADLEY:**

Well, I think you are going to have to ask them.

**CHAIRPERSON FIELDS:**

Okay.

**COMM. BRADLEY:**

Of all the lists we saw, those things were the most serious and we said let's do these first. We felt strongly that if they did this HVAC modification that it would alleviate a lot of the problems that we were having, because a lot of it was the smells of the chemicals that were just not being ventilated appropriately through the building. So we wanted to start with those as the most important.

**MR. DURNEY:**

Understand also there is a chronology to how it happens. I am just a layperson, but you have got to make the corrections in the venting and the exhaust before you can balance the system. I think that is the point. The point is –

**CHAIRPERSON FIELDS:**

But I think there is more than just balancing. I think there are some repairs. But what I was wondering is out of this huge report of all of the violations, it is odd that Touro chose to only do a couple of them and not all of them. This report was October 6<sup>th</sup> of 2000.

**MR. DURNEY:**

My own feeling on that is that as the Commissioner says, you try to do the most important things, you set a priority. There is a certain amount that you can accomplish in any given point in time, and I believe that is exactly what happened. Using the resources of the Department of Public Works and their guidance that was set. We set that in terms of proceeding. The thing is, and I will keep getting back to it, is that it is an ongoing process that to a certain extent has been interrupted by not following through with the things you need to do once the major repairs were done.

**CHAIRPERSON FIELDS:**

We are talking about Touro not following through. Legislator Postal.

**LEGISLATOR POSTAL:**

I think if I am correct in kind of paraphrasing what you are saying and what you have said is that the modifications to the HVAC system to the physical plant that were agreed upon were done and it is really the fine tuning of or the utilization of the HVAC system – for example,

the balancing. So that the balancing was something that is in dispute but the actual equipment, the placement, that was done. It is that the balancing hasn't been done or completed or properly done.

The other issue is the percentage of fresh air that is coming into the health center portion of the building, and you mentioned a figure of ten percent. Apparently there is difference of opinion about what percentage is adequate. That is a second issue. And again, having nothing to do with I would imagine the equipment, but calibration and settings and you know, that kind of thing, although I don't know whether additional equipment is needed in order to send a higher percentage of fresh air into the health center portion of the building or it is just settings. And then the third issue is the operation of the HVAC system for all of the hours when the health center is being utilized.

So those are the three issues which may be different issues from the issues that involved modification, repairs, adjustment to the equipment in the physical plant. Am I right? So those are issues, and I guess what we have to find out at this point is where we are. I mean, I gather from Dr. Bradley's statement that discussions with Touro have not been productive in resolving those three issues.

**COMM. BRADLEY:**

Correct.

**LEGISLATOR POSTAL:**

So, I mean, it seems to me that that's really the kernel of where we are now, and I think we need to hear from Touro and we need to hear from the County Attorney.

**CHAIRPERSON FIELDS:**

I also just wanted to ask if Southside Hospital has anything to add to what has been presented or if there is any new information that we have not heard? And also the Fire Marshal's Office, if there is anything that we might need to share.

**MR. ZUCKERMAN:**

Good morning. My name is Jay Zukerman. I am a Vice President at Southside Hospital. From the hospital's perspective, the Bay Shore Family Health Center reports to me through Mr. Williams. There are several observations that I think are important for me to make. Some of it is based upon my expertise or lack of expertise in terms of this whole situation.

While Legislator Foley identified the problem going back to the air-conditioning problem, I need to briefly touch upon the period in time when Touro moved into the building and did renovations. You have to realize that the employees that have been there for a long period of time and they have gone through multiple problems.

When Touro had a construction firm move in, it was a terrible experience for our own employees. At Southside we have undergone multiple renovation projects, and we do all sorts of things to minimize the effect on the employee from dust to noise and what have you. My sense is that the construction firm that Touro used did not use the same sort of due care that we do. As a matter of fact, there was in fact a meeting in the County Executive's Office to address some of these issues. That is old news, but I think it is important to know the context of the problem. And at the time -- and we all believe hope springs eternal. It was our belief and the Health Department's belief that we will survive the construction. Once Touro would move in with their students they would be good neighbors.

That sort of happened until the summer that Legislator Foley identified and once again, it took meetings with the County Attorney to in fact get the air-conditioning to in fact be operational. Here again I can understand from our perspective the length of time it takes to install a new air-conditioning system, but it was obvious to us that the rapid fix of getting a temporary unit, our belief without knowing what Touro had to do financially or otherwise, was that it was not done with the due speed that we would have done, Southside, if it were our facility. So I need to put that in that kind of context.



From the perspective of our own employees, approximately 43 of them have experienced difficulties. Those difficulties entail such things as upper respiratory conditions, burning of the eyes, tastes in their mouths, and most recently, sometime in the middle of April we had this new phenomena of a rash occurring with a number of employees who have gone to their physicians and in fact are receiving medication for that. So we have rightfully so a group of employees who have been put upon and they have all sorts of legitimate concerns.

**CHAIRPERSON FIELDS:**

Can I interrupt?

**MR. ZUCKERMAN:**

Sure.

**CHAIRPERSON FIELDS:**

The 43 employees, their complaints go back to approximately what date?

**MR. ZUCKERMAN:**

We are taking the period of time in September when there was the brief evacuation related to the repair work done to the HVAC system by a contractor using a product that got into the HVAC system that was still working.

**CHAIRPERSON FIELDS:**

So September of 2000 to present.

**MR. ZUCKERMAN:**

That is correct.

**CHAIRPERSON FIELDS:**

Thank you.

**MR. ZUCKERMAN:**

The dilemma we face is, and I have to characterize it as anything, is there is a term used called sick building syndrome. The dilemma is, and Scott can confirm that, we have had discussions with the State Health Department. Their response to this is generally they are difficult to find and you need to do multiple things to fix it, and when it goes away, you will not be able to necessarily attribute any one thing to the fix.

I hate to be a pessimist, but I need to be honest, that if the balancing occurs, if in fact the system is kept on longer, if in fact the air changes or the volume of fresh air is increased, there is no guarantee that the problem will abate itself. There is hope and expectations like there was hope and expectations when Touro ultimately did the right thing by adding additional ventilation and stacks and what have you to the anatomy lab and other areas of the building.

What we need to do is work together in a multiple fashion to try to address the kinds of things that can be done to alleviate the symptomatology that's occurring on our side – on the health center side of the building. We need to do that with some speed, one, for the sake of the patients – and we haven't talked about them that much. Many patients now have to go to the Brentwood Health Center where we have temporarily located. Scott has the data about the numbers of no-shows. The prenatal clinic has been relocated to temporary quarters at the hospital, and we are trying to do the best that we can, but we had to realize that we had to deal with the needs of the patients as well as the needs of the employees in the building who have been put in a difficult situation. And with most things, we endeavor hope springs eternal that the people will move with due speed. I have some concerns in terms of the speed in which some of these things have been addressed.

**CHAIRPERSON FIELDS:**

Thank you very much. Legislator Alden.

**LEGISLATOR ALDEN:**

Hi. Do you have a list of what you would consider possible fixes for this problem, whether it be filters or balancing or –

**MR. ZUCKERMAN:**

I am probably not the best person in the world because – I am an administrative type and I am not the best person in the world, so there – I think we need to start with things like the balancing just to get a sense of how much air is there.

**LEGISLATOR ALDEN:**

Because you mentioned that Southside has gone through major construction projects and I am aware of those because I am in there quite bit, but did Southside have any like experts on –

**MR. ZUCKERMAN:**

We have engaged a firm to work with the County called {Anson} Associates who we have recently engaged who have done some things to look at things such as the ceiling tiles in the Health Center. Are those, since they were primarily from the original construction, is there a need to replace them? We don't have an answer to that, for example.

**LEGISLATOR ALDEN:**

And you are sharing any of those reports with our Commissioner?

**MR. ZUCKERMAN:**

Yes.

**LEGISLATOR ALDEN:**

Good. Okay. Thanks.

**COMM. BRADLEY:**

Legislator Alden, the County Attorney's has sent a letter to Touro with a minimum of three things that need to be addressed – the three things that we keep talking about, the balancing, the fresh air, and maintaining the HVAC system while we are in the building.

**CHAIRPERSON FIELDS:**

Have they asked for a time to have those items completed, the three items completed?

**COMM. BRADLEY:**

It was more they have to be done as soon as possible. There has been some interaction between the County Attorney's and Touro, but I think it would better for the County Attorney's to answer that.

**CHAIRPERSON FIELDS:**

Legislator Alden, go ahead.

**LEGISLATOR ALDEN:**

We want to make sure that it is a complete fix and not just we do a couple of things and then later on have to get Touro to agree to do other things because this could drag out like it is dragging out now. To get back in there and safely operating I think we need to try to put everything that we can on the table with them right now.

**CHAIRPERSON FIELDS:**

Fire Marshal.

**MR. HORST:**

Warren Horst, Suffolk County Fire Marshal's Office in the Department of Fire, Rescue and Emergency Services. Our involvement in the recent past has been in two instances when we were requested by the Department of Health Services to look at two specific occurrences that happened in the Health Center in the beginning of this year, neither of which really have any

bearing on the discussion that you have had so far.

The first was the presence of propane in the air monitoring that took place on March 29<sup>th</sup>. That was identified as being 55 parts per billion. If I remember by volume that is an extremely small amount. It would pose no health problem, it would pose no fire explosion problem. However, we did investigate where the piping ran in the building. We did speak to the original – I'm sorry, the installer that took over the account when Touro took over the building, which is Vitali Bottled Gas in Bohemia. They had tested that line. It was tight. They certainly offered to test it again if somebody was willing to pay about \$85, but that was not in question, so we pretty much have put that to bed.

Subsequent monitoring of the air, and I believe it was in early May, has shown that there was no presence of propane so it is a moot point as far as the discussions are concerned this morning.

On that particular day when we were out there to investigate where the piping ran, we would expect that if there was a leak it would probably be something that we could smell because propane is odorized. That particular day there was no -- absolutely no indication of propane odor in the building. As a matter of fact, it was probably well masked by other odors in the building that I think were attributed to {kerosafe}, which is a type of formaldehyde that was being used on the Touro side.

The second instance was about a week and a half ago. There apparently was a problem with the boiler number two in the building which caused a smoke condition in the boiler room that was introduced into the ventilation system and circulated throughout the building, obviously it being smoke from the combustion of the burning of the oil of the heating unit. It causes some distasteful odors. I believe either four or five people self transported themselves to Southside Hospital because of that particular exposure. The boiler was shut down. As a result, there is no continuing problem with it. We have asked the Town of Islip Fire Marshal's Office to continue the investigation in that regard to see that the appropriate repairs are done.

**CHAIRPERSON FIELDS:**

Thank you. And we have a copy of your report also; right?

**MR. HORST:**

Probably not, because it is not complete at this time.

**CHAIRPERSON FIELDS:**

Okay.

**LEGISLATOR FOLEY:**

Madam Chair, if I may on that last point. This would be for the Commissioner. When we look at the memoranda from Anne Marie Carbonetto to Rich Meyer, May 14, 2001, this May 7<sup>th</sup> episode that the Fire Marshal has just mentioned, it states – and we mentioned earlier about the air balancing issue. It states here in the memo that Akiva Kobre sends DPW a letter, maybe we can have Mr. LaGuardia answer this, in which he states that the air balancing will not be performed on the County side of the building. The County closes the health center pending correction of air quality. Do you have a copy of that letter that you can furnish to the committee?

**MR. LAGUARDIA:**

I can get it for you, Legislator Foley.

**LEGISLATOR FOLEY:**

Is there anything else that you could add to that, amplify on that point?

**MR. LAGUARDIA:**

Yes. I spoke personally with Akiva Kobre on the issue and he did offer – it is a complicated issue. We balanced our side of the building when we finished there. Technically if he

provides us the right air at all the transfers in a normal situation that would be more than sufficient. But because we have had so many problems and they've failed to balance their side of the building in an expeditious manner, we've had our employees trying to rebalance. They have been fooling with the damper. So our side is no longer properly balanced really because they didn't balance their side.

He did offer if it was a real problem to come on our side and do some balancing and I told him that we would try to come to a reasonable compromise. Mr. Monaghan has been working on it and he is about to write him a letter telling Touro what we believe the proper compromise is, exactly how much balancing we think is important on our side, and it will be a significant amount. Touro is not aware of that because the letter is not written yet.

**LEGISLATOR FOLEY:**

Thank you. Thank you, Madam Chair.

**COMM. BRADLEY:**

Here is the letter that talks about the balancing of our side of the building.

**CHAIRPERSON FIELDS:**

Okay. Thank you. I would ask, I guess, that Touro – is there anyone else that wishes to speak other than Touro?

**COMM. BRADLEY:**

I just want to make a comment based on what Legislator Foley was talking about in terms of bringing people into the building. This has been an issue that we have been grappling with for months. We have evaluated whether it was appropriate to close the facility all along the way. It is not just that people were complaining so we should close it. We tried to look at not only the OSHA standards, what the complaints were, what the issue was, and we knew that once we closed that building that we were going to be causing hardship to people also. If you look at the no-show rate, it is about 20 percent to the health center. When we relocated last week, 50 percent of the people are not going for health care. So there is a downside that we had to balance with the issues we were dealing with. I mean, it was not, "Oh, we are having problems, we better close this building."

It was a complicated issue. It went on for months, multiple players, being a tenant in a building where the County pays them a dollar a year. It was almost we had very little at our hands to try to solve the problems. I don't want to lighten the concern that we have had on this issue.

**CHAIRPERSON FIELDS:**

Okay. Thank you. I guess we would ask that Touro come forward.

**MR. KOBRE:**

Good morning. We have heard from nine people on behalf of the County, and we've heard rather a full digest, I think, of the County's feelings of the – feelings of the various departments, I should say, feelings on these matters. I am going to try to respond. With me, I'll repeat again, is Mr. James Meade. Mr. Meade is a man who has spent numerous decades managing systems of the sort that we have, managing facilities of this sort. He is a consummate professional, as I say, with much experience, and we should hear from him on some of these issues as well.

I am going to try to address it as briefly as I can. If I were to spend the same proportion of time, and I don't want to use the word balance because we have used it too much today, it would be over 800 minutes of response, so I am going to try to be somewhat concise.

I would like to – I have to say first that I am a bit shocked is probably the right word to find ourselves characterized as recalcitrant, difficult to deal with, unresponsive. I have to tell you, we don't see ourselves that way at all. As a matter of fact, we think that this facility is meticulously and carefully managed in a very, very cooperative fashion.

We have not done this on our own as well. We have also brought in a number of professional outside firms to work with us on this. They have provided us with reports. Some of those reports have been provided to various County departments. Some are in the process of being typed as we speak, but thorough investigations were done. The various County departments are familiar with the engineers that we used and I think that they share our confidence in these engineers. We have at every point without exception followed the advice and recommendation of our engineers. This is not a landlord –

**CHAIRPERSON FIELDS:**

May I ask – Commissioner Bradley, could we get her back in here to hear some of this? I really would like her to hear this. I'm sorry for the delay, but I really would like to have the Commissioner of our Health Department hearing all of the information that you are about to give us.

**MR. KOBRE:**

Sure. I appreciate that.

**CHAIRPERSON FIELDS:**

Okay, go ahead.

**MR. KOBRE:**

Among the outside groups with whom we've contracted to resolve some of these issues or to advise us on these issues, we include the engineer Andrew J. {DiSiderio} as well as Controlled Energy Systems. They have both constructive reports, both recently and in the past, to address all of these issues. We have diligently and I'll repeat the word meticulously followed their recommendations without exception, and we have done it with as much speed as we can possibly muster.

There are several other underlying matters that I think need to be presented before we get into any level of detail. The first is not terribly important. I want to stress that. The reality is that although we heard from the Budget Department, perhaps I'm mistaken, but it seemed to me as though the Budget Department had mentioned that the County provided funds for the renovation of this building that Touro performed. I may be mistaken about that. Touro, as we know, arranged to acquire this building from the County. The funds that were used in the construction and renovation were either federal funds or funds out of Touro's pocket. Touro was not asked by the County, actually, to provide a separate entrance nor the rather expensive addition to the building including a stair tower, a separate elevator, and a separate entrance and lobby. All of that was constructed out of Touro's pocket at its own initiative for the –

**CHAIRPERSON FIELDS:**

May I interrupt for one second? I have here in front of me a resolution dated laid on the table 4/15/97. The resolution says, "Authorizing the transfer of the Bay Shore Mini Center to the Town of Islip." In it the operating budget was amended so that the County Comptroller and County Treasurer "are hereby authorized to transfer and appropriate the following funds." From Public Works to interfund transfer, \$528,175, which were for renovations.

**MR. KOBRE:**

For Touro's use in renovations? If those funds were transferred, those were transferred from federal grant and loans. I know of no monies that Touro received. And as I say, I preface it by telling you I may be incorrect, but to my knowledge Touro received no County funds directly for – or indirectly to my knowledge, for the renovation of the facility. Funds were provided in a two million dollar loan and a one million dollar federal grant transferred through the Town of Islip from HUD for the renovation and acquisition of the building.

**CHAIRPERSON FIELDS:**

Well, then I really would like to know what happened to this money. Who has the money? Do we have someone from the County Attorney's Office that can say? It is a lot of money to have disappeared into thin air. Okay, go ahead. Continue.

**MR. KOBRE:**

The property was leased back, one-third of the building was leased back to the County for its use, a variety of functions, in an as is condition. Without warrant as to what would be going on within the County areas, it was assumed by all parties at the time that the County would maintain its own areas and that would not be the responsibility of Touro College.

Nevertheless, the reason I say that is not important is because we desire today and we have always desired to be very good neighbors. We don't even think of ourselves strictly as a landlord, but more as a neighbor, and we have tried to act in that capacity at all times.

**CHAIRPERSON FIELDS:**

Why would you suggest, though, that you are not the landlord? Who is the landlord?

**MR. KOBRE:**

No, no, of course we are the landlord. I am saying – it is a turn of phrase. In other words, what I am saying is of course we are the landlord, and of course as a matter of strict legality this was leased back to the County on an as is basis. We don't think of ourselves, though, in that capacity. We think of ourselves more as neighbors than as a landlord. But of course, in fact we are landlord in the building.

**CHAIRPERSON FIELDS:**

Go ahead.

**MR. KOBRE:**

There are a number of issues that were discussed today that are unrelated to each other. I think there is some confusion regarding the connection between these various issues.

I want to first say that we have been committed and we remain committed to resolving these problems in a cooperative fashion. We have expended a great deal of money in doing so and a great deal of effort in doing so, and we have tried to follow the guidelines set in meetings with the County at all points. We have been cooperative at all points, we have been not only responsive but proactive in informing the County with regard to what we are planning to do, what actions we are planning to take, and reporting to them on what we have done after we have done it.

**CHAIRPERSON FIELDS:**

In a timely manner?

**MR. KOBRE:**

Oh, yes.

**CHAIRPERSON FIELDS:**

On the record you are going to say that you have responded in a timely manner to all of the requests that the County has made of you?

**MR. KOBRE:**

We had a meeting, and that meeting was mentioned. I don't recall the date of that meeting. We had a meeting at which the Department of Health was present, the Department of Public Works was present, the County Attorney's Office was present, our attorney's were present, I was present with Mr. Meade as well. At that meeting we had decided –

**CHAIRPERSON FIELDS:**

Can you give me the date of that meeting or the approximate time of that meeting?

**MR. KOBRE:**

I can look it up.

**CHAIRPERSON FIELDS:**

This year, last year?



**MR. KOBRE:**

I believe it was the end of 2000. It was approximately six months ago, perhaps in November.

**CHAIRPERSON FIELDS:**

And what happened at that meeting?

**MR. KOBRE:**

That was a meeting to discuss the issues that we all heard from today with regard to air quality on the County occupied side of the building. At that meeting it was concluded that the County would be in contact with Touro and Touro with the County in a cooperative fashion at all points without delay and that the senior chief engineer for the Department of Public Works would represent the County's interests in discussions with Touro and I would represent Touro's interests in discussions with the County.

Since that time, I think the record will substantiate that we have acted quickly, proactively, cooperatively, in both informing – informing the County of what it is doing – of what we are doing and responding quickly to any inquiries about what we are doing.

**CHAIRPERSON FIELDS:**

You heard about a report that was generated from Michael Monaghan, our Senior Mechanical Engineer to Anne Marie Carbonetto, and you heard testimony today that Anne Marie shared this report with you. The report was dated October 6<sup>th</sup>, 2000. What did you do with the report and what did you say about that report?

**MR. KOBRE:**

During her discussion this morning, Ms. Carbonetto had indicated that Touro – she had shared the report with Touro and that Touro had agreed to do some of the corrections indicated in the report. If we are talking about the same report, and I believe the final date on that report was November of 2000, November 6<sup>th</sup> if I am not mistaken.

**CHAIRPERSON FIELDS:**

I think the report was generated in October and I believe that someone testified that it was presented in November.

**MR. KOBRE:**

We received that report and Touro agreed to do everything that that report required. At no point was Touro recalcitrant. At no point did Touro delay in any fashion in providing the corrections that were indicated in that report. As a matter of fact, during that meeting that was just prior to the – just subsequent or prior to the issuance of that report, we discussed our engineer's position on this matter with Mr. Monaghan. Our engineer agreed with Mr. Monaghan that certain structural requirements were necessary.

Specifically we have been discussing this morning an anatomy lab on the Touro side of the building. The anatomy lab indeed uses certain chemicals. They are present as we all heard and in quantities that are less than OSHA standards, but nevertheless, we are concerned about dissemination of those chemicals. The anatomy lab vents air from its space into the exterior of the building. It was Mr. Monaghan's consideration, our engineers who agreed with him as well, that there is the potential, not the certainty, but certainly the potential that some of these chemicals can be routed back into the building through an air intake. I think we need to understand that there is not direct routing within the building between this laboratory and the County occupied side of the building.

**CHAIRPERSON FIELDS:**

Let me interrupt. On page, I don't know, one, two, three, four – four of that report, it is code compliance issues with recommendations. It says (a), the anatomy laboratory HVAC system is improperly operated and installed, and (b), the two laboratory fume hood exhaust systems are improperly installed.

When you received this report, did you agree that the air-conditioning system isn't properly operated and installed and that the fume hood exhaust systems are improperly installed?

**MR. KOBRE:**

What we did was we presented immediately to our engineer who agreed with Mr. Monaghan that his recommendations for corrections of what he refers to as an improperly installed system would be immediately corrected.

**CHAIRPERSON FIELDS:**

So you are saying that you agreed that – you just said it has the potential, and now you are saying yes, it was improperly installed.

**MR. KOBRE:**

Well, it depends on how you characterize – again –

**CHAIRPERSON FIELDS:**

I don't think that this depends on how you characterize it at all. I mean, I think that we have heard testimony today that 43 people from Southside Hospital had some complaints, there are patients that had some complaints. I would be shocked that you didn't know that there were complaints, and I am shocked that you would think that perhaps someone was making it up and maybe it has the potential of coming back – it just doesn't make any sense what you are saying.

**MR. KOBRE:**

I'll explain. The inference –

**CHAIRPERSON FIELDS:**

And I want to go back to another date here, May 9<sup>th</sup> 2000. "Environmental Quality DPW Safety Office toured facility. Touro refused to supply drawings or access to their side of building, but informed those in attendance that an engineering firm had been hired to evaluate the HVAC system. Letter that includes scope of engineer work sent to Jim Alipo, County Safety Officer, from Akiva Kobre, Touro VP of Operations." Is that correct?

**MR. KOBRE:**

I don't have the letter in front of me.

**CHAIRPERSON FIELDS:**

No, no, that you refused. That is the part that I am asking.

**MR. KOBRE:**

No – actually, would you like me to address these in order? With regard to your last comment, Touro's refusal. Touro to my knowledge has never refused to provide plans. Touro, in fact, provided Mr. Alipo with plans 48 hours after his request. A number of times it is characterized here that Touro has refused entry to the building. I am familiar -- and we'll hear from Mr. Meade on this. I wasn't present, Mr. Meade was present. He can discuss this specifically. It is my understanding – why don't we ask him to address this, because he is the point man on specifically this matter.

**MR. MEADE:**

Regarding individuals from the County coming into the building, I was unsure of whether I should let them in because I was concerned about the environment of the school, about classes being disrupted, and I wanted clarification from my administrative office in Manhattan.

**CHAIRPERSON FIELDS:**

So you are saying that you were told that there were some people who were ill and that there were some odors that were coming –

**MR. MEADE:**

No, Ma'am.

**CHAIRPERSON FIELDS:**

-- from the building and you were unsure.

**MR. MEADE:**

I was referring to give access to a group of individuals from the County based on some reports that they had that people smelled odors, not that anyone was sick from the odors.

**CHAIRPERSON FIELDS:**

So even at that, you know you have an anatomy lab and you have formaldehyde and you have chemicals that could be carcinogens, and you have been just told by the Suffolk County Department of Health that there are some odors and there are some problems and they would like to have access to your building, who you classify yourselves as not really a landlord but good neighbors, and you are not going to let your other good neighbor in to look at your building or to smell anything.

**MR. KOBRE:**

Actually, what happened was that there were a number of individuals representing the County who did not write in advance, did not call in advance, but appeared actually at the door –

**CHAIRPERSON FIELDS:**

If my neighbor appeared at the door I would let them in. I wouldn't have to write to my good neighbor.

**MR. KOBRE:**

I understand that. But a large group of –

**CHAIRPERSON FIELDS:**

You brought this up, that you don't classify yourself as a landlord.

**MR. KOBRE:**

That is accurate. Well, I didn't say I didn't classify myself as a landlord, I said we try to act as good neighbors and –

**CHAIRPERSON FIELDS:**

You don't look at yourselves as landlords.

**MR. KOBRE:**

We think of ourselves that way, yes we do. So in any event, a group showed up. As I say, I wasn't present, but Mr. Meade was I guess a little bit surprised and did not let them in at that time. He discussed it with me subsequent to that, and I advised him to cooperate fully in every possible fashion, and I don't believe that that has occurred after that one incident.

**CHAIRPERSON FIELDS:**

But it did occur.

**MR. KOBRE:**

There was one occasion upon which we did not allow access, yes.

**CHAIRPERSON FIELDS:**

Go ahead.

**MR. KOBRE:**

With regard to the corrections that were indicated in that report, we acted immediately on that. At our cost we hired – we directed our engineer who was off working on a different aspect of our HVAC system to turn his attention immediately to designing those corrective measures. We shared the plans with the Office of the Department of Public Works, and as soon as possible we hired a group to come in and do that work.

**CHAIRPERSON FIELDS:**

Do we have a date on this?

**MR. KOBRE:**

The date that the work was completed was –

**CHAIRPERSON FIELDS:**

No, that you acted immediately.

**MR. KOBRE:**

We can provide you with a file. We can provide you with the contracts if you would like with the group that actually did the work. We can provide you with communication, internal communication between ourselves and our engineers asking him to turn his immediate attention to it, absolutely. This was done with alacrity.

The work was then done. It was done as quickly as we can marshal. We had the work performed. It was concluded by February 23<sup>rd</sup>. The intent of this work was to take air that was exhausted from the building and remove it to a sufficient distance from the building envelope itself so that it is not expected to reenter. We expected that this was going to resolve any potential problems of air that might be emanating from Touro's space reentering the County space.

**CHAIRPERSON FIELDS:**

And the balancing?

**MR. KOBRE:**

I am not quite sure I understand that. I am not quite sure that I understand, and maybe I am insufficiently schooled.

**CHAIRPERSON FIELDS:**

Who from Touro would understand that, that the County wanted your side to be balanced along with our side.

**MR. KOBRE:**

Well, I can discuss it. I did send a letter to Mr. Monaghan, I believe it was Mr. Monaghan, telling him that we did not understand that – number one, we did not understand that the balancing is going to correct any air quality issues.

**CHAIRPERSON FIELDS:**

So it was really more of a disagreement.

**MR. KOBRE:**

No, I am not sure that it is. I can tell you what our thoughts are then as they are today. I still as I sit here do not understand specifically – and again, it may be a lack of schooling. But I do not understand the direct relationship or even indirect relationship between air quality issues and building balancing.

**CHAIRPERSON FIELDS:**

Okay. Let me ask you another question, then. We have heard testimony that the air-conditioning is shut down at certain times and that the Health Department has a difference, you heard testimony that when you walk into the Touro side you can almost feel a breeze, and when you walk into the Health Department's side, it is as though you were sucking air through a straw. I think that was something similar.

**MR. KOBRE:**

I don't disagree. I absolutely agree with that.

**CHAIRPERSON FIELDS:**

Okay. Now, if somebody told me that and then responded by saying we would like you to

balance it, my not having any schooling or understanding of any air-conditioning system, I think I would realize that there needs to be a balancing also.

**MR. KOBRE:**

The question, number one, is not whether or not it needs a balancing. The question is whether or not Touro is responsible for that balancing.

**CHAIRPERSON FIELDS:**

You just said you weren't quite sure you agreed with it. Now you are saying you are not responsible for it.

**MR. KOBRE:**

No. No, Ma'am, there is no confusion whatsoever. What we are saying is that on a legal basis we don't believe ourselves to be responsible for balancing the County side. However –

**CHAIRPERSON FIELDS:**

But you just told me there was a question about balancing, you didn't understand the balancing.

**MR. KOBRE:**

However – no, what I am saying is that however, even if it would be our responsibility, I do not understand how that is related to air quality. Now, what balancing achieves, as far as I am aware, is it provides for the correct amount of air entering the system –

**CHAIRPERSON FIELDS:**

Okay. Let's take away air quality from here. We just heard your side is breezy, the other side is dead, and now you are saying well, we are not really responsible for that.

**MR. KOBRE:**

Certainly the County is responsible – I have to tell you, if the tiles in the ceiling or the floor are cracking or coming up on the County side of the building, it is not Touro's responsibility to address it, it is the County's responsibility to address their area. The reason that Touro's side is a bit more breezy, which admittedly it is, is because Touro spent a very great deal of money when they came into the building to renovate their side of the building.

**CHAIRPERSON FIELDS:**

But didn't they also spend some money to renovate the air-conditioning side of the Health Department?

**MR. KOBRE:**

No, they did not.

**CHAIRPERSON FIELDS:**

I thought the whole – can somebody from the Health Department just verify that, or DPW? Did we not hear that the air-conditioning was replaced on the whole side or the whole building?

**MR. KOBRE:**

The central systems, the chiller system, we heard from Legislator Foley a discussion about an issue of high temperatures as well as I believe from Mr. Hill, high temperatures that occurred during the summer some time ago in which chiller systems supplying the building failed. Those chiller systems were replaced by the college and they of course generate air for the entire building. However, the ducting systems and the air handler systems for the County side were not replaced by the college, no.

**CHAIRPERSON FIELDS:**

“July of 1999, health center reports temperatures of high 80's to low 90's due to lack of air-

conditioning. July 7<sup>th</sup> letter from County Attorney to Touro College requesting status of air-conditioning renovation. July 8<sup>th</sup>, 1999, Touro agrees to replace HVAC system and provide temporary chiller.” Yes?

**MR. LAGUARDIA:**

Legislator Fields, there were two renovations that were done at that building. The first renovation was done before Touro entered the building, and it was to relocate the health center into what was now going to become the County side, the County leased portion of the building. We renovated the ductwork on that side of the building. The County under contract balanced our portion of the building. The problem is, is that when Touro took over their two-thirds of the building, they remodified the entire HVAC system and needed to provide us the correct quantities of air to the ductwork. The ductwork that feeds their side of the building also feeds our side of the building. So it is a common system. It is not separate systems between the two different sides of the building. So when they renovated their side of the building, it was necessary that they balanced immediately, and it is almost two years later before – it just started the balancing now.

To complicate the problem is because we didn't have the right amount of air, our employees have been fooling with our side of the system. That wouldn't have happened if the correct amount of air was provided right away.

**CHAIRPERSON FIELDS:**

That's two years ago.

**MR. KOBRE:**

That's correct. The County side – when Touro came in, I don't know that – maybe I misunderstood this. Touro didn't go in and reconfigure the HVAC system on the County side. What Touro needed to do was to make sure that sufficient air quantity and sufficient temperatures were being provided. In the letter that was referenced earlier that was sent by me to the DPW, I had indicated that we would prefer that Touro takes its transverse measurements to assure that the proper quantities and temperatures are entering the area and that the County actually balance its own spaces. In a follow-up phone call to Mr. LaGuardia, I had mentioned to him that if he were insistent, we would balance the County areas as well.

Any delay in balancing the building is not simply because of the slow movement of Touro. This work is not being done by Touro's own forces. It is under contract to a general contractor, SJS Construction. It has taken quite some effort on our part to get them to move, but we finally did get them to move and actually as we sit here today the building is today and has been for several days been undergoing balancing. We expect that they will be up to the balancing of the second floor by Thursday, by tomorrow.

**CHAIRPERSON FIELDS:**

The letter I see here from May 2<sup>nd</sup> of 2001 is “Lastly, in recent correspondence it appears that County personnel are expecting that Touro College air balance the County occupied portion of the building. While Touro under its lease has no obligation to do so, we are concerned that the entire building be properly balanced and that our tenants be comfortable. It is my understanding that the air balancing performed by the County was satisfactory. Touro's performance of air balancing adjustments in the County occupied space would cost several thousand dollars. We suggest that Touro perform transverse measurements such that the County be assured that sufficient air quantities and temperatures are being provided to its areas. Subsequently, the County would be able to make any balancing adjustments to its space that it desires.”

It sounds like the County has, you know, just from hearing the testimony, that the County has tried to do their side of it and balance their side of it but that Touro needed to, since it is a common system, balance it.

**MR. KOBRE:**

That is correct, but you can't balance one without the other. In other words, if we had



wished to a month ago enter the County space and balance on that side, we would not have been able to do so because it is in some ways a linked system. Therefore, we would have to wait, and actually we had written them several letters telling them all along when we were going to balance it, that we were having some difficulty in getting our own contractors to do this in a timely fashion.

**CHAIRPERSON FIELDS:**

Why would timely – I mean we have asked for the balancing now for how long?

**MR. KOBRE:**

Quite some time, as we have asked ourselves for the balancing. In other words, we are balancing ourselves.

**CHAIRPERSON FIELDS:**

Quite some time meaning what, two years? Quite some time is two years, and you are telling me that you could not get a contractor to come in there and balance the system in a timely fashion?

**MR. KOBRE:**

What we are saying is that our own area is not balanced as well for the same period of time.

**CHAIRPERSON FIELDS:**

But your area has a breeze. Have you had this formaldehyde smell? Have you had any of your students or instructors have a problem and have to go to a hospital or to a provider?

**MR. KOBRE:**

No, not one. As a matter of fact, now that is a curious point that needs to be examined.

**CHAIRPERSON FIELDS:**

It is curious because I'll bet you that if you had one of your students or one of your instructors you would have had that building balanced in less than 24 hours, but as a good neighbor you are choosing to do this in a timely fashion of two years, not even, yet.

**MR. KOBRE:**

Actually, I wouldn't characterize it that way.

**CHAIRPERSON FIELDS:**

I would and I did.

**MR. KOBRE:**

I understand that. I would like to explain a little bit. If in fact the problems, the health problems – we have somehow come to a conclusion here without identifying the problem -- we have still not as I sit here, I have not heard an identifiable connection between anything that Touro is doing on this side of the building. I think we have drawn some conclusions that those are the issues that are affecting the County. I am not sure that I can fully believe that in fact the problems are not emanating from the County side and affecting the County. I have not heard – no measurement has been taken, no report has been provided that can provide that link. I wish that were the case because we would react immediately.

**CHAIRPERSON FIELDS:**

But the building has been there for 30 years and they never had a problem before Touro moved in.

**MR. KOBRE:**

That is correct as far as I am aware.

**CHAIRPERSON FIELDS:**

What would that tell you?

**MR. KOBRE:**

I really don't know. I really don't know.

**CHAIRPERSON FIELDS:**

I think you do.

**MR. KOBRE:**

However, I do know –

**CHAIRPERSON FIELDS:**

No, I think you do.

**MR. KOBRE:**

Would you tell me?

**CHAIRPERSON FIELDS:**

I will. I just did. The building's been there for 30 years. They never had a problem until Touro moved in, and now you are saying, "Oh now I think it is the County problem."

**MR. KOBRE:**

No, I am saying that we need to examine that. What I am saying is that if we have reduced the issue, as we appear to have today, to three matters, to the issue of balancing the County side, providing additional air intake above that which is code required, and extending the hours. That is what I understand to be the remaining issues now that we have resolved any structural issues. If that were the case –

**CHAIRPERSON FIELDS:**

Wait a minute. You started out by saying that you disagreed with a lot of the testimony today, and I am a very fair person, and I was absolutely loving to hear your end of this and to hear your response and your side and with open ears, eyes and my brain. I am hearing really from you that you are denying any responsibility from Touro, that you are not a good neighbor, that you are not providing access. You said no, that you did provide access. The gentleman, I don't know where he is now, said oh, well, yes we did, and then you tell me well, we didn't have any written notice and you were entering – my good neighbor – I am now convinced that you are not either a good neighbor or a good landlord. I know that there is some discussion about two law – two courtrooms and the County, and I will do everything in my power to see that that situation doesn't go forward.

**MR. KOBRE:**

I would like to apologize for what is obviously providing you – I have obviously provided you with the wrong impression here. I would like to discuss – actually, on a number of the issues that were raised here today I don't think that we are in disagreement. All I am saying is that we are not uncooperative. There was one occasion which we didn't permit entry, and subsequently I had informed Mr. Meade that entry was required on each and every occasion that was requested. Plans were provided. We cooperated enthusiastically with the DPW, proactively. I actually can't think of anything that we did or did not do that we should have or should not have done otherwise. What I am saying –

**CHAIRPERSON FIELDS:**

Taking two years and still not completing it to balance the air-conditioning to me is not proactive or cooperative.

**MR. KOBRE:**

As I say, the air balancing and the air quality are two separate matters. We are trying to –

**CHAIRPERSON FIELDS:**

But they are still two matters.

**MR. KOBRE:**

Right. And we are trying –

**CHAIRPERSON FIELDS:**

And you are ignoring both of them. You are ignoring both of them. They both exist.

**MR. KOBRE:**

In terms of air quality – let me just, each of them, again then, because perhaps I am not communicating properly. With regard to air quality, I cannot think of any matter that was raised by the Department of Health, by the DPW, by our own engineers and consultants that was advised that we do that we have not done, and with alacrity. We are unable to identify, unfortunately unable to identify any specific cause for the symptoms that are being reported at the health center. I wish that were otherwise so that we can address it. But I don't know what else to do.

**CHAIRPERSON FIELDS:**

But they are asking you to address it. I think here we are having a situation that exists that never existed in the 30 years that this building has been operated. Suddenly it is existing and they are asking for your cooperation to say look, we have done everything and you've done so far to this point maybe not in a timely fashion in my estimation, but maybe in someone else's you have, but you are not cooperating by saying well, we have tried everything else, let's try to balance it. You are telling me well, we didn't get anybody in there for two years but we are trying.

**MR. KOBRE:**

Ma'am, what I am saying is that in a personal telephone call to Tom LaGuardia I did tell him that if he were insistent we would do the balancing. In a letter to him I had indicated that we would prefer, previous to that conversation, that we would prefer to do transverse balancing as a matter of preference and let the County balance its own areas. But we would certainly balance it if that were necessary, and I had indicated so to him in a conversation.

**CHAIRPERSON FIELDS:**

Do you agree after all the testimony today that this common system needs to be balanced on your side?

**MR. KOBRE:**

Absolutely. Absolutely.

**CHAIRPERSON FIELDS:**

Are we after this meeting is over going to know and be assured that you as a good neighbor and a landlord are going to work on getting this air-conditioning balanced immediately?

**MR. KOBRE:**

The balancing is going on actually as we speak. It began several days ago and it is expected -- and it progresses through the building and is expected to reach the second floor of the County area tomorrow.

**CHAIRPERSON FIELDS:**

And why did you begin it a couple of days ago and just tell me before that you weren't sure that that was –

**MR. KOBRE:**

Maybe I should have prefaced with some of this. I should explain. The work that was done, the interior of this building, was done by a contractor. The name of the contractor is SJS Construction. SJS Construction did not, in our opinion, finish their work, and we have withheld a certain amount of funds pending the completion of their work. The specific matter of completion that we were not satisfied with happened to have been within the HVAC systems. However, they are in matters that are purely contractual and not related in any way that anyone can determine to air quality, and I can tell you specifically one specific example, and you can check this with the DPW. It is the use of flex duct as opposed to hard

duct. That is something that we had bought but did not receive.

So, we have been in discussion with them for a long period of time. Unfortunately, their business was transferred during this period of time, during the last two years that we are discussing here. The business was sold and it was quite difficult to get the subcontractor that installed these systems to come back and complete the work, including the air balancing. We can provide you with a record, lengthy and intensive record of correspondence. We tried in every way to get them to do it, and we finally did manage to get them to do it, but unfortunately a lot later than we would have liked. But I can assure you that the effort was there all along and continues.

**LEGISLATOR FOLEY:**

Mr. Kobre, when could the employees of the County Health Department as well as Southside Hospital employees, when will they be able to return to that side of the building and with confidence see and feel that the air quality as well as the air exchange is of such a superior standard that they have no fears of having any upper respiratory problems again? When do you see them being able to return to the building?

**MR. KOBRE:**

If I can address that actually as several separate questions.

**LEGISLATOR FOLEY:**

That's fine.

**MR. KOBRE:**

It is my understanding that the evacuation was the result of some intake of smoke that came from a roof mounted smokestack that was the result of a turnoff of the fuel oil system. That is an unusual occurrence. Smoke was released from the smokestack and reentered through some open windows. So it is not my understanding, and I may be wrong, but it is not my understanding that the evacuation actually was the result of any air quality or air balancing issues.

With regard to the air balancing, it is my expectation that that work is going to be concluded next week. Is that correct, Jim?

**MR. MEADE:**

Yes.

**MR. KOBRE:**

That will be concluded next week, and if that is the case then as far as air balancing is concerned, all calibrations and all adjustments should have been made at that time and there should be an issue related to either Touro space or the County space with regard to air balancing.

With regard to air quality, however, I would love to be able to give you the assurance that nobody would experience any symptoms upon their return. I would love to be able to tell you that we have identified a source anywhere in the Touro side or in the County side of the building and that we have traced the problems or the symptoms I should say to the source and that we have a corrective measure underway to deal with that. But I actually am unable to identify what the problem is. Had I been able to do so, we would have corrected this very long ago.

**LEGISLATOR FOLEY:**

Well, the fact of the matter is we heard testimony earlier from Mr. Hill of the Health Department, to my way I think he did identify what some of the air quality problems were, what the odors that the employees were suffering with – formaldehyde and methylene chloride on one occasion. So in fact the testimony earlier did indicate where in the estimation of some nationally respected experts within our Health Department in this area of environmental quality, they in fact did identify, Sir, where these odor problems were emanating.

I don't mean to be argumentative, but the fact of the matter is, not to correct what you said, but the fact that we heard different testimony from Mr. Hill in fact stating where some of these odors were stemming from as opposed to your comments, Sir, that you are at a loss or you don't know where some of these problems are causing when in fact with some of the best machinery, if you will, on the market we, we meaning the department, have been able to in fact identify that.

**MR. KOBRE:**

I am not aware of the use of methalyene chloride in our building.

**LEGISLATOR FOLEY:**

No, the testimony earlier was it was a one time event because they were cleaning the air-conditioning units or some such thing. You may have to look at the company that you have servicing your air-conditioning.

But beyond that, please answer the question and respond to the point that I just made, that in fact there is testimony today that did in fact identify where the problems were emanating from relating to the odors that employees were suffering from on their side of the building. Formaldehyde certainly – you can make certain judgements, not just judgements, but formaldehyde certainly we know what part of health sciences that comes from. So how can you, again, I mean this with respect, but how can you tell us that you don't know where these problems are emanating from when in fact we have heard otherwise from our own as I say nationally respected environmental quality professionals in this area.

**MR. KOBRE:**

I would turn this question to Jim Meade, but before I do, with your permission. If formaldehyde is being used in an anatomy laboratory, we are aware of no way for those odors or any containment in the air to be transferred from that laboratory to the County side of the building.

**LEGISLATOR FOLEY:**

Did you ever request, did you ever get a copy of the environmental quality reports from the Health Department?

**MR. KOBRE:**

Yes, we did.

**LEGISLATOR FOLEY:**

Now, you reviewed those. So you are still of the opinion that you don't know where the odors are emanating from, even though you had copies of those reports.

**MR. KOBRE:**

Those reports were, to my understanding, were issued prior to the structural alterations that were made. I could easily understand how prior to those alterations it is possible for air to be exhausted from the building and then to reenter in an air intake –

**LEGISLATOR FOLEY:**

Which alterations are we talking about now? What timeframe?

**MR. KOBRE:**

We are talking about the alterations that took place in January and February of 2001.

**LEGISLATOR FOLEY:**

I am talking about prior to that.

**MR. KOBRE:**

Right.

**LEGISLATOR FOLEY:**

You must have been –

**MR. KOBRE:**

In other words, what I am saying is that the report was issued prior to that and that report would indicate that there are odors or presence of any materials even in minute levels, but presence nevertheless, on the County side.

**LEGISLATOR FOLEY:**

Let me correct the record. Not so much of minute – not just of minute levels, but in some cases while they didn't reach the threshold of OSHA violations, they still reached a level that caused extreme discomfort to a number of employees to the point where they had to evacuate the building. So go ahead, please.

**MR. KOBRE:**

Yes, and I don't treat that lightly at all. I don't know that OSHA needs to be the only standard here, and I agree with you on that. However, that report was issued prior to the structural alterations. It is my understanding that the intent of the structural alterations that were recommended by Mr. Monaghan of the DPW and Mr. LaGuardia, as well as by our own engineers, were intended specifically to correct that, to take any exhausted air outside of the building envelope to such a distance that it would not be taken into the building once again. I am not familiar with the report subsequent to those alterations that would suggest any other measures.

**LEGISLATOR FOLEY:**

Thank you for refining the answer.

**CHAIRPERSON FIELDS:**

I just want to go back to the \$528,175 that was transferred and ask that our Budget Review Fred Pollert respond to – you've been able to trace where that money did go.

**MR. POLLERT:**

The funds were originally included when the building was transferred to Touro. The funds were subsequently transferred to a County capital project and the funds with the exception of \$22,000 were expended for building renovations prior to – they were expended for the building renovations from the time that Touro has moved into the building. So there was a total cost of the County in excess of one-half million dollars the post time that the building was transferred to Touro to make building renovations.

**CHAIRPERSON FIELDS:**

So you now know that \$500,000 of County money did go into the building.

**MR. KOBRE:**

Oh, no, absolutely. I wasn't contesting that at any point. What I had been suggesting is that what I had heard was that the money was transferred to Touro for its use in renovating the building, that that was not the case. I think there is a misunderstanding.

**LEGISLATOR FOLEY:**

Though the Chair. It is a refined answer, but to the point, and the record should be very clear on it, that if you look at the building in total that the County spent half a million dollars on some improvements.

**MR. KOBRE:**

Absolutely. I understand that.

**LEGISLATOR FOLEY:**

Very good.



**CHAIRPERSON FIELDS:**

Does the County Attorney want to address anyone here? Come on up – come on down.

**LEGISLATOR FOLEY:**

Mr. Kobre, I would like to as one member of the committee thank you for attending today. I think you understand our frustration. As bad as the Coram Health Center has been, I'll say it for the record, over a number of years, we never had to reach the point of evacuation. Whereas in this building, and as you heard from the Commissioner earlier, it was not done lightly, but in fact has reached such a critical threshold, if you will, that that wholly unprecedented move had to take place.

**MR. KOBRE:**

Legislator Foley, we are deeply distressed by it all. I can only continue to assure you that we have taken all measures that we possibly can. Our ears are open to hear any other recommendations and we will act with speed and responsiveness for any requests.

**LEGISLATOR FOLEY:**

Thank you.

**CHAIRPERSON FIELDS:**

I appreciate that. Don't leave quite yet in case we have more to ask you. Mr. Garfinkle.

**LEGISLATOR FOLEY:**

Mr. Garfinkle, thank you for attending today's meeting. A lot of questions are raised – how much of this has to go into executive session I don't know. Could you tell us from the perspective of the County Attorney's Office on how the County Attorney's Office has – how you are following through with the concerns of the Health Department to insure that our neighborly landlord, and I mean that respectfully, that our landlord here is going to do the things that need to be done in order for County employees to come back into the building. How is the Department of Law working in this whole area to insure that when Southside employees go back into the building, when the County health official's employees go back into the building, that it is going to be of a – it will be a situation that we won't see a repeat of these past air quality problems. So how has your department worked in this fashion?

**MR. GARFINKLE:**

In explaining how our department has been handling this situation, I think -- and for clarification purposes, and I am a lay person like you folks are, but in speaking with the Health Department, in speaking with DPW, I think we have identified three areas, and Legislator Fields identified them, but I think for conversational purposes terms get interposed and interrelated.

As I understand it, there were three major areas of concern with respect to the facility. One which we are calling – basically they have been reduced to what is called air quantity and air quality. For discussion purposes, there is the air temperature, okay, and the air temperature is impacted by two, as I understand it, two major causes. Number one is the balancing, and number two are the hours of operation. Then you go into the areas of the air quality. We heard discussion about odors and things of that nature. And the air quality as I understand it is a component of the ventilation and how much air, fresh air, is brought into the building -- at least in laymen's terms. If there is anybody that disagrees with it they can come up. From my analysis and my discussion that is how I have broken it down based upon discussions with DPW and with the Health Department. They get interrelated sometimes and it becomes a little confusing.

I think to understand where – how we got to where we are, sometime starting from the beginning point is the easiest. I think after several hours of testimony from a legislative point of view you may want to start from the end, where we are now.

As of yesterday I had discussions with not Mr. Akiva, but with representatives of Touro. What we were told was that they are having representatives go through the building as we speak, or at least they were starting yesterday, the day before, and at the present. And

without indicating who is right, who is wrong, acknowledging a good portion of the County's concerns, and that they will take all reasonable efforts to immediately evaluate them and correct them. Obviously until you have some idea or at least from the landlord's point of view as to the nature of the problems, they said they will take all reasonable efforts. When I said what does that mean, they said in real terms they don't believe these are high ticket items. If it turns out that it is a \$100,000 repair, the recommendation to fix something is going to be \$100,000, the President of the college was going to become directly involved, may say no, I don't think that is reasonable. But based upon at least the preliminary analysis we are not talking, from Touro's point of view, high ticket items despite what is being said here today or what in furtherance of what is being said here today.

What I propose, and I had spoken to the Commissioner of Health, is that starting – considering that they have started their walk through, what the County Attorney's Office wants is a daily progress report of both their evaluations and their remediations. Obviously if they say this has to be fixed, a part may have to be ordered, nothing may be done tomorrow or the next day. But notwithstanding nothing being done, physically I want a report into why something was not being done. We would be reviewing it on a daily basis with the Commissioner of Health and make a determination whether or not we can move back into the building. Our goal is to move back in. You've heard testimony that it is obviously more convenient than trying to find another facility. We will do everything reasonable within our power to get back into the building and reestablish the relationship of the landlord and tenant.

**CHAIRPERSON FIELDS:**

Can I just back up for one second and ask one question that wasn't answered when you were up here. Do you have students in the summertime?

**MR. KOBRE:**

We have a staff during the summertime. We do have classes running during the summertime, although not at full capacity.

**CHAIRPERSON FIELDS:**

Thank you. Okay. I'm sorry.

**LEGISLATOR FOLEY:**

Mr. Garfinkle, representing your client, do you think it would also make sense not only to receive daily updates, but that the Public Works Department will be given, if it is necessary to properly represent your client, but Public Works to be given every available opportunity to jointly inspect the work that is being done?

**MR. GARFINKLE:**

What specifically was discussed, and I brought that very question up, Legislator Foley, and considering – despite the words of good neighbors, good landlords, there are very serious problems. For whatever reasons and whatever intentions, that is the reality.

What was suggested, and I don't have an objection to, is considering the nature of the relationship, is that individually a person or expert to make their walk through. They will then be talking, not simultaneously, within a day or so, to the staff, presumably Mr. Meade, to corroborate or get a second opinion, which may be accepted or rejected. After that initial two, three day period, there would then be a walk-through with County DPW, which I would anticipate would be sometime by early or mid next week. So to answer your question, yes, DPW would become directly involved, and in the very, very near – when I say in the very near future, within the next three, four, five days.

**LEGISLATOR FOLEY:**

If I just may follow-up. Would it also be, since we want to look at all the constituents, if you will, or employees of the site, would it also make sense – is there also in the narrowly defined terms -- but since the Southside Hospital has an interest with this, does it also make sense that personnel from that particular hospital would also be present at those joint inspections?

**MR. GARFINKLE:**

I can't answer that. My understanding is they have had no problems with the evaluations made by our DPW people. If DPW thinks they need the extra help, I would leave that to the discretion really of DPW.

Prior to – after the incident with the breakdown of the burner and the fumes coming into the building, the County Attorney's Office had conversations with both DPW and with the Health Department at the Commissioner's level. We discussed much of the history which had gone on, the problems that you heard today, and additional problems. We had advised the Commissioner and she raised the concerns about the problems of closing the health center, the concern about the fall-off of attendance because people would not have either the ability or they are more comfortable going to Bay Shore than going to another facility. All of those evaluations were made, and based upon what we believed to be the various responsibilities under the lease, we concluded and then advised the Commissioner that there was a legal basis for vacating the premises. I can say we were there for many hours over several – over two days in particular and it was a very hard decision to reach. It was concluded that for the safety of both the patients and the staff of the County and the staff of our contract agency, Southside, that vacating the building was the safe, proper, and legal course of action to take.

Prior to that, and we'll go back to the initial transfer of the building from the County to Touro. I think part – in developing, and I am not going to get into the legal strategy here, but in developing and understanding I think a genesis of the problem was, and that's not untypical to Touro or anybody else, we are not a typical tenant. When we transferred the building the difference in the cash that we received from Touro as to what the building was worth was effectively made up through our having a one dollar a year seven year tenancy there. There is a significant difference from a practical point of view when a tenant is paying 15, 18, 20 dollars a month per square foot, a year per square foot, versus one dollar a year. The relationship is not going to be the same. It is not the ideal situation. We understood that. What we did also understand –

**CHAIRPERSON FIELDS:**

But didn't we give them a building?

**MR. GARFINKLE:**

If I can finish. What we did understand is that number one, they were going to be operating a health type college at the premises, that they were sensitive that we were operating the facility, our portion, primarily as a health center facility, and that there would be a commonality of interest. We safeguarded both by logic and representations that we would be treated as close to a normal tenant as any tenant would be.

**CHAIRPERSON FIELDS:**

And they got a six million dollar building.

**MR. GARFINKLE:**

And they got a very valuable building.

**CHAIRPERSON FIELDS:**

For a dollar. Seven dollars.

**MR. GARFINKLE:**

No, that's not –

**CHAIRPERSON FIELDS:**

A dollar a year?

**MR. GARFINKLE:**

We are paying a dollar a year in rent to make up the difference between the cash

consideration that we were given and the value of the building. When we also understood, and while I respect the people obviously from Southside that are here, anybody who has gone through a renovation that has lived through in a building or a house knows it is never an ideal situation. To the credit of the Health Department, despite the problems that were going on during the renovations and very probably and possibly they should have been to higher standards, but the Health Department was very tolerant during the construction phase to their credit and they did a wonderful job explaining things to their staff and their patients. We thought that those problems, whatever they were, would significantly disappear at the time that the renovations were completed and when Touro came in. Did you want me to stop?

**LEGISLATOR FOLEY:**

Go ahead.

**MR. GARFINKLE:**

During the first summer there was significant problems as you heard the testimony with the air temperature of the building at the County's portion. My suspicion is that the building at that time was not being occupied by a significant number of people from the Touro side and it was a lower priority. What was agreed to was that, and under the lease we pay one-third for the utilities even though – and Touro is two-thirds of the building. A temporary air-conditioning system was put in and we paid our one-third cost of that and it temporarily solved most of the significant problems to the point where it became bearable. What we thought was that when the main air-conditioning system came on in the following year there would not be a timing problem, which the following year it became a timing problem also that we felt that it wasn't on long enough. We then had the problems with the odors and everything else.

Putting all of that into a box, discussions were had with Touro very recently, in the last couple of days in fact, since we evacuated the building. The representations were made that they believe that number one, those problems will all be fixed and corrected, and if they are, we'll be able to go back into the building. The only thing that we won't know permanently obviously and we will just have to see is that the timing situation, that the air-conditioners go on early enough and stay on late enough. I would suspect that that would not be a problem if all the other – if the other problems are addressed and fixed. If they are not, we obviously have our recourse and we will do whatever is necessary under the law to protect the County's interests, including that of its patients and its staff. That is where we are today.

**CHAIRPERSON FIELDS:**

At the next Health Committee meeting can we get a report, a daily activity report?

**MR. GARFINKLE:**

Assuming it is supplied, and if it is not supplied you will be notified, yes.

**CHAIRPERSON FIELDS:**

Thank you.

**LEGISLATOR FOLEY:**

If I may, Madam Chair. Mr. Garfinkle, just a passing comment. Thanks for the overview, but I would just somewhat disagree with the nature of the tenancy. Even if it is a dollar a year, the fact of the matter is because of all of the other dynamics of the situation, the fact that it was sold at far below market value and some other very generous incentives that we had given to Touro when this building was sold, and I don't think – I think Mr. Kobre would agree with this, is that the dollar a year rental arrangement in no way, shape or form should lessen the interest of the landlord to respond to the tenant's problems. I know that is not what you meant, but I just wanted to have that clearly on the record, that even though it isn't the typical rental arrangement, that no one should use that different rental arrangement as a reason for not insuring high quality of air and high quality of space for the tenants.

**MR. GARFINKLE:**

I am agreeing with you, Legislator Foley. The context that I was saying it was from a

management point of view the Department of Health and the other tenant – which is the primary tenant on the County side, is understanding of the relationship and has been more than accommodating on its part, and that we would like the same accommodation on behalf of Touro.

**CHAIRPERSON FIELDS:**

Can I ask you one other question? Is Suffolk County incurring any out of pocket expenses for this?

**MR. GARFINKLE:**

My understanding, and you can check with the Commissioner, but initially I believe the only costs when we vacated the building, under the contract with AME if you don't give an employee a certain notice of time for a reassignment, I don't know whether it is ten days or whatever it is, for that ten day period or whatever period that is you have to pay for mileage to the other location. I am not aware of any other cost, though, at this point. There may be, I just don't know.

**CHAIRPERSON FIELDS:**

I think probably we would like to know that at the next Health Committee meeting, too, and the utility bill. Okay. Thank you very much. I hope that we will be able to resolve the situation and I think that you have to understand that we are running a health center for a population that may never get to a physician or have medical care, and these are very sick people, some of them. Not only are we concerned about the patients who utilize the building, but we have a major responsibility to them and to our employees. When employees come down with symptoms that we have been hearing about and now we have heard today that 43 of them – I mean, I thought that it was – not that even one is acceptable, but there is a real problem here. As a landlord, as an employer, we have a responsibility for those people. These are human beings that again, if this directly affected you, I think your response might be a bit different, but it directly affects me. I have spent a long time in the medical field prior to coming to the County, and I am alarmed whenever there seems to be a lack of caring to other human beings, and that is what I am seeing here.

I would like to see that there is cooperation and no one stopping the County from going over to the other side. I am sure that even if there were people who came in that day that were three or four or five people it would not really disrupt the classes or anything else. I mean, this was a grave problem as you can see now, and maybe in retrospect you might have let them in. But I would hope in the future that you are more cooperative and these are problems we have to solve and we can't put them off and postpone them. I think they have to be answered and responded to immediately. That's not even timely, immediately. Thank you for coming.

**MR. KOBRE:**

Thank you.

**LEGISLATOR FOLEY:**

Madam Chair, notwithstanding the fact that we have a committee meeting next week, I just want to ask Mr. Zuckerman on an unrelated matter, if he could just step forward, on a health center issue, and then perhaps we can get an answer from the Commissioner if not today, by next week.

Mr. Zuckerman, as you may be aware, the County Executive is supposed to be sending a letter to all the health centers about reversing the decision to cut four percent of the budget from a variety of health centers. Have you received any correspondence from the County Executive's Office reversing that directive that was sent out early in the year to make those cuts?

**MR. ZUCKERMAN:**

Not as of today.

**LEGISLATOR FOLEY:**

Not as of today.

**MR. ZUCKERMAN:**

If I could make one comment. On behalf of the patients and ourselves, we truly appreciate the work of the County Legislature and the County Executive in terms of the increase in the sales tax. I know it is not an easy thing to do and I need to publicly express our appreciation and thanks on behalf of ourselves and all of the patients who don't have an opportunity to stand before you.

**LEGISLATOR FOLEY:**

Just one other moment, Madam Chair. If we could hear from the Health Commissioner as to when she – if the Health Commissioner could please step forward. As she is walking forward, if she could answer the question about when – many of us thought the letter would already have gone out. When will the letter be going out to the different contract agencies?

**COMM. BRADLEY:**

It is coming out from the County Executive's Office. We were told that the three percent cuts to the health centers were lifted, so we let the hospitals know that. But the official letter is coming out from the County Executive's Office. I think it is – I don't know that it officially left their offices. I will follow-up, but I thought they were sending it.

**LEGISLATOR FOLEY:**

It is important because when I had spoken with some of the other contract agencies this – verbal or not, this is still under the written directive of to stay within the cut. So, they need to have the letter.

**COMM. BRADLEY:**

And we were told it was all 498's, all contract agencies were lifted. I will follow-up.

**LEGISLATOR FOLEY:**

Please. And if we can have an answer by next week's committee meeting. Thank you.

**CHAIRPERSON FIELDS:**

Thank you.

*(The meeting was adjourned at 12:40 p.m.)*

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